CALIFORNIA'S TRANSITION PERIOD

1846-1850

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UNITED STATES OF AMERICA.

THE TRANSITION PERIOD OF CALIFORNIA

FROM A

PROVINCE OF MEXICO IN 1846

TO A

STATE OF THE AMERICAN UNION IN 1850

BY

SAMUEL H. WILLEY, D.D.

SAN FRANCISCO
THE WHITAKER AND RAY COMPANY
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TO

THE OFFICERS AND MEMBERS

OF THE

SOCIETY OF CALIFORNIA PIONEERS

THIS VOLUME IS RESPECTFULLY

Dedicated

According to the Constitution of the Society of California Pioneers, one of its objects is, —

"To collect and preserve information connected with the early settlement and subsequent history of the country."

PREFACE.

(PERSONAL.)

THE writer's home was in Monterey in 1849. It was then the capital of the territory and the head-quarters of the United States army. The governor and his staff resided there, and there were the offices of the civil government.

The officers and their employees constituted the larger part of the English-speaking portion of the population, and among them the very important questions concerning a civil government to take the place of military rule, which was now at an end, were constantly discussed. Although my vocation as a clergyman left me little time to look into these things, I became very much interested in them, and in all that pertained to the history of this new country to which I had come. I took every opportunity to gather information from those who had been long residents here, and carefully preserved such historical papers and documents as fell into my hands. All the events that led up to the calling of the convention which formed the state constitution in September, 1849, were familiar to me, and being connected with that body as chaplain, all its proceedings were familiar also. I never had time, however, in a busy life that followed, to make any use of the historical materials that had accumulated by the way, till within a few years past. Then, in looking over events in the past perspective,

it seemed clear to me that the transition of California from its connection with Mexico to become one of the United States of America, especially at the time at which this took place, and under the unprecedented circumstances which surrounded it, and in view of the amazing consequences that followed, made it an event that ought to be considered by itself.

Hence this monograph, which the writer hopes may prove to be a valuable contribution to the history of this state, which has just completed its first half-century.

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BOOKS AND AUTHORITIES

EXAMINED IN THE PREPARATION OF THIS WORK

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BANCROFT'S *History of California.*
Annals of San Francisco.
GENERAL SUTTER'S *Diary.* (Manuscript.)
FRÉMONT'S *Memoirs.*
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Congressional Globe.
BAYARD TAYLOR'S *El Dorado.*
SCHOULER'S *History of the United States.*

BRYANT'S *What I Saw in California.*

HALL'S *History of San José.*

Notes of conversations with earty residents of California, relative to the period of history under review. Among them were: GEN. M. G. VALLEJO, *born in California in 1808;* HON. DAVID SPENCE, *who came here from Scotland, I think, in 1822;* CONSUL THOMAS O. LARKIN, *coming in 1832;* GENERAL JOHN BIDWELL, *in 1841;* CAPTAIN HENRY L. FORD, *of the "Bear Flag" company, who came in 1842;* CAPT. H. W. HALLECK, *who arrived early in 1847;* COL. R. B. MASON, *who came in February, 1847; and* GENERAL BENNETT RILEY, *who arrived in April, 1849.*

THE TRANSITION PERIOD OF CALIFORNIA.

CHAPTER I.

The Change of Flag — Antecedent History — Early Explorers — Period of Silence — Founding of the Missions — Boston begins Trade — California a Mexican Province — Frequent Local Revolutions — Explorations — Captain Cook and John Ledyard — France — England — Russia — United States.

The day that saw the Mexican flag come down in California and the flag of the United States go up, marks one of the most important changes in the history of the American continent.

The full result, however, was not reached till a little over four years later, when California was admitted as a state to the American Union.

These four intervening years constitute a period of such peculiar and critical interest that it invites and will reward a special study.

In approaching this study we observe that California is but a part of that one third of our North American continent that pours its waters into the Pacific Ocean, and furnishes sea-coast and harbors all along its more than fifteen hundred miles of coast-line. And what is remarkable is, that this vast domain was for so many centuries unused and comparatively unoccupied by civilized man.

It seems to have been held in reserve for some great purpose.

Meanwhile other ocean shores were densely peopled,

and were made alive with the pursuits of commerce, trade, and navigation.

But here all was silence.

Now and then, explorers sailed along our coast as far north as they dared, and one of them, in 1542, gave the name "Mendocino" to our cape, which it retains to this day, and another, in 1579, by a visit ashore, attached his own name to the bay which we know as Sir Francis Drake's Bay. In those days the Manila ships—those roomy, slow-sailing galleons, filled with precious freight and specie—approached near enough to our coast to see the land, but glided leisurely down the horizon toward Mexico and the Central American ports.

On land, from the ocean shore eastward, over plains, through valleys, across rivers, through forests, and over mountains, clear to the Rockies, roamed only wild beasts and wild men.[1]

Not until the sixteenth century closed and the seventeenth began, did the Spanish explorers find two or three of our harbors and publish a description of them.

And then, strange to say, there followed a full century and a half of silence, during which neither land nor ocean was used!

At last, well on in the latter half of the eighteenth century, a little movement appears.

Spain wanted ports on this coast at which her Manila ships could repair and find supplies.

At the same time, a renewed missionary zeal induced the Franciscans to undertake a mission for the con-

[1] "In this region (1845) the condition of the Indian is nearly akin to that of the lower animals. Here they are really wild men."—*Frêmont's Memoirs*, vol. 1, p. 438.

version of the natives of Alta California, and the preparation for the enterprise was committed to Galvez at La Paz. The general plan and methods of undertakings like this had been familiar in Spain for more than two hundred years.[1]

A couple of ships were fitted out with missionary emigrants and soldiers to come to the port of San Diego.

At the same time, an expedition was prepared to come up the peninsula of Lower California by land.

The parties all reached San Diego in July, 1769, and at once founded the first mission.

Their object was the Christianization of the native inhabitants, and to prepare them for civilized life.

Exploration of the country between the ocean shore and the Coast Range of mountains immediately followed, and within a few years missions like that in San Diego were planted at convenient distances northward, all the way to San Francisco Bay.

Many thousands of Indians were gathered into them, and the effort to train them for citizenship and a Christian life was made perseveringly during the period of about two generations. But it was not a success.

To be sure, great obstacles were encountered in connection with secular governments, but the principal difficulty was that a character qualifying the native inhabitants for citizenship was not developed.

[1] "It was the policy of Spain, adopted as early as the year 1551 by the Emperor Charles V., and never departed from by his successors, that the Indians should be compelled to live together in villages, this being considered the only possible condition of their becoming civilized. . . .

"The missions were not intended to be permanent, but to be merged into parishes and dioceses with bishops."—*Dwinelle's Argument*, pp. 13-17.

Meanwhile, along with this experiment of the missions, there came a slight colonization from Spain, of a few people of more than average intelligence and ability.

They obtained grants of land, and by the aid of the labor of the natives developed the great ranchos so famous in early California history.

A little later, a few Europeans and some Americans found their way into the country, and, marrying native wives, made themselves homes here and there in the country, where they could secure grants of land.

But for many years it could not be said that the country was inhabited. Its harbors were rarely visited. Its lands were uncultivated.

Its scattered ranchos were always in fear of incursions from the wild Indians, who dwelt in the San Joaquin Valley and in the foothills of the Sierras.

They were in the habit of sweeping down upon them in force, and driving off their herds and bands of horses.

As years went by, a few hunters and trappers found their way over the mountains from the east and the north, and remained in the valley of the Sacramento.

Somewhat early in the present century, Boston merchants opened a trade on this coast, sending every variety of goods that might be wanted here, and receiving in payment hides and tallow, the only product of the country.

The ships could afford to pay largely at the custom-house in Monterey for the privilege of doing this business, for they sold goods at an enormous profit, and the customs officials could afford to forget the law,

in order to fill the treasury, from which alone the government derived its support and its officers received their salaries.

No money went from here to the central government in Mexico, nor did any come from that source to California for the benefit of this department.

Indeed, it was left very much to itself, now and then receiving governors from Mexico, and sending them away when they became tired of them.

Revolutions were frequent, carried on by the officials, and supported by the loose and reckless class that had nothing to lose, but the people of substance seldom took any interest in them.

They built themselves thick-walled adobe houses, with solid doors and barred windows, and if a political storm arose, they shut themselves in and waited till it was over.

It cannot be said that any proper or adequate use was made of this country as a whole during these years, or indeed as long as it remained a department of Mexico. At the same time, it was attracting a good deal of attention from the leading nations.

Its geography, its climate and resources, became matters of scientific inquiry by them all, while at the same time its unsettled political relations were by no means overlooked.

Captain Cook, the distinguished English explorer, looked in upon this coast in his third voyage in 1776, and his report concerning it awakened an interest even beyond his own country.[1]

[1] The name of our American traveler, John Ledyard, is, singularly enough, connected with this voyage, and with results of the greatest

France took note of it, and sent La Pérouse ten years later, in 1775, and he reported on the coast from Mount St. Elias, in the north, down to Monterey.

The English were not satisfied with what they had learned, but in 1792 sent Vancouver, who had been midshipman under Captain Cook in his visit here, with orders to survey the coast from 30° northward.

The Russians from Alaska came down to obtain supplies in 1806, and planted, temporarily, a colony by which what was needed might be produced from year to year.

France was not satisfied with what she had learned through La Pérouse, but in 1840 sent Duflot de Mofras, a learned and cultivated gentleman, to make a scientific exploration and report.

consequence afterward. Ledyard was a Connecticut-born boy who was sent to Dartmouth College in the days of President Wheelock. He was quick to learn, but restive under restraint. He craved adventure. Going into the woods near the Connecticut River, he cut down a tree and made of it a canoe in which he sailed down the river to Hartford, and soon shipped as a sailor on a voyage to England. He arrived in London just as Captain Cook was to sail on his third and last voyage. He got introduced to Captain Cook, and was made corporal of marines. In the course of that voyage he visited this coast, and became more or less acquainted with California. This was in the year 1776. In his subsequent wanderings he was in Paris in 1785, and became known to Thomas Jefferson, then United States minister there, by whom he was received with great kindness.

Mr. Jefferson listened to his description of this Northwest coast, and perceived at once the advantages bearing on the commerce and political interests of the United States. Sixteen years later, Mr. Jefferson became President of the United States, and one of the first things he did was to secure the sending of the Lewis and Clark exploring expedition overland to the Pacific.

They went up the Missouri River, starting in 1803, and crossed to a branch of the Columbia, and thence down that river to its entrance to the ocean, and returned the same way, and were gone two years and four months.

Ever since the publication of their journal, the country has taken a deep interest in the destiny of this Pacific region.—*Sparks's American Biography*, 2d series, vol. 14.

Furnished with a passport from Mexico, he spent two or three years in fulfilling his commission.

His report was published in Paris in 1844, and was a most complete account of this then unknown country.[1]

The United States sent the Wilkes exploring expedition to this coast in 1841, and a survey was made of the Bay of San Francisco and of the Sacramento River, and also of the Columbia River, in Oregon, and in 1843 Mr. Frémont extended his transcontinental survey from the east to this point on the Columbia, to which Wilkes had carried his from the west.

These surveys and explorations made in the first half of the present century by the leading nations indicate the growing interest that was felt in California. And the publication of their reports increased that interest in a very high degree.

They revealed to the world a comparatively unoccupied territory of the greatest value.

Its vast plains and valleys, hundreds of miles in extent, fertile and well watered, awaited cultivation.

Over all was a climate so genial and healthful the year round, that no other could be compared with it.

Its bays and harbors, found along a coast-line of nearly a thousand miles in extent, — one or two of them the finest in the world, — were but rarely visited.

1 De Mofras, an *attaché* of the French legation at Mexico, was detached from that service in 1840, by Marshal Soult, at that time president of the privy council of Louis Philippe, for the purpose of making a thorough reconnaissance of California and Oregon.

This work he accomplished in the most faithful manner, reporting in two volumes, in 1846, to the King.

It is a work of the highest authority, and was doubtless prepared as a handbook for the acquisition of California by the French. — *Dwinelle's Argument*, p. 15.

The people dwelling here, say, about 1840 numbered only a few thousands, in a country capable of supporting millions.[1]

California's political connection was with Mexico, but it was a remote province of that government, separated from the rest of that country by a long sea-voyage on the one side, and by an almost impassable desert on the other. The people of California were hardly more than Mexican in name, and not at all in interest, sympathy, or patriotic feeling.

They were all the time dissatisfied with the Mexican government, and recognized with little regret the probability of their coming, ere long, under the flag of some other nation.

No wonder that the other nations, having explored the country, and seeing this condition of things, stood ready, each one of them, to seize the first safe opportunity to take possession of it.

The United States was especially watchful of events relating to California.

The government, through its successive administrations, entertained the opinion expressed by Mr. Jefferson, "that this whole Western region, separated from the United States by no barrier of nature, ought to be eventually embraced in its territory."

Indeed, it became a settled purpose of the government that it should not come into the possession of any European nation.

[1] "The population at that time was estimated at seven thousand of Spanish blood, ten thousand domesticated Indians, seven hundred Americans, one hundred English, Scotch, and Irish, and one hundred Germans, French, and Italians." — *Hittell*, vol. 2, p. 275.

CHAPTER II.

Thomas O. Larkin—Gives Information to Washington—Is Appointed United States Consul—His Description of the Country—Frémont's Exploring Expedition, 1844—Mormons Look toward California—The MacNamara Colonization Scheme—Wide Interest in California at Home and Abroad.

At the same time, every means was used to keep up an intimate acquaintance with California affairs, especially with its political condition, and the disposition of its more influential citizens toward other nations in case of a change of flag.

This was done more particularly through Thomas O. Larkin, who came to California from Boston in 1832, and lived in Monterey, conducting there an extensive business.

Mr. Larkin was an unusually alert and observing man, and took a particular interest in keeping himself thoroughly acquainted with the political situation.

He communicated information concerning these matters to the authorities at Washington.

In 1844 Mr. Larkin was appointed United States consul for California.

He took particular pains to get accurate information concerning the political preferences of the leading Californians and communicated it to his government.

Therefore, when, later, the prospect of a change seemed to be near, this information proved to be of very great value.

He was intrusted with the very delicate business of presenting to influential men of the country the ad-

vantages that California would derive from becoming a territory of the United States.[1]

It is interesting now, after all the great changes that have taken place, to review his representation of California as he then made it to the government at Washington.

"First as to its boundary." He says "that the territory extends eastward to the Rocky Mountains, although but a narrow strip is inhabited along the shore of the Pacific. As to the land adjoining the sea-coast, it is principally under private ownership, as is also that around the Bay of San Francisco, but in the great valley of the Sacramento very little is taken up, and in the valley of the San Joaquin, none at all.

[1] I have before me a manuscript copy of part of Mr. Larkin's correspondence, giving information concerning California affairs as they were in 1844-45.

The papers were given to me by Mr. Larkin himself in Monterey in 1849.

They contain a description of the country, an account of its political state, and notes relative to the political leanings of some of its prominent citizens.

Of those living in San Diego, he mentions José Antonio Aguirre, Henry D. Fitch, and John Warner.

In Los Angeles — Abel Stearns, Juan Bandini, Pio Pico, José Carrillo, Manuel Requene, Henry Dalton, Luis Vigñe.

In Santa Bárbara — José de la Guerra, Carlos Castro, Joaquin Ortego.

In Mission San Luis — Mariano Bonillo, William Dana, Isaac Sparks, Luis T. Burton.

In Monterey — Pablo de la Guerra, William E. P. Hartnell, Manuel Diaz, José Abrigo, Estáben Monras, Salvador Monras, José Amisti, Antonio Osio, Francisco Pacheco, Juan Auzar, Joaquin Gomez, Manuel I. Castro, Francisco Rico, James Watson, José Castro, Juan B. Alvarado, David Spence, José Juan Pico, Charles Walters, José Bolcoff, Raphael Juan José.

In San José — Antonio Suñol, Charles W. Flugge, Carlos Castro, John Marsh, William Fisher.

In Yerba Buena — William A. Leidesdorff, William Richardson, Francisco Guerrero, Timothy Murphy, Antonio Juan José, Joaquin Victor, Alvino Castro, Mariano G. Vallejo, Salvador Vallejo, Jacob P. Leese, Victor Prudon, Eliab Grimes, John Bidwell, John A. Sutter, Stephen Smith, Henry Mellus, W. D. M. Howard.

"Farms in these valleys, and indeed in the coast region, cannot be safely cultivated, because of their exposure to Indian raids, and there is no military force in the country able to prevent them.

"Of the foreigners in California, three fourths are Americans, and of the remaining fourth, one half is English, many of whom are expecting to come under the government of the United States, and all of them would prefer this, rather than that things would remain as they are.

"A majority of the immigrants are from the Western states, consisting of farmers, mechanics, and general laborers, together with some young men from New England and the middle states, who leave home to seek their fortunes in a foreign country.

"Politically, California is at present ruled by two men,—Pio Pico, the governor, who resides in Los Angeles, at the south, and Castro, the military chief, who resides in Monterey, in the north. In the latter place is the custom-house, the only money resource of the country, and the governor and the general cannot agree as to the division of the funds. Hence they are at enmity, and are all the time suspicious of each other.

"If Mexico should send a military force with authority to supersede them, and they could be agreed, they could bring into the field from eight hundred to a thousand men, who would continue under arms a month, whether paid or not.

"If Pico and Castro were united, they could at present raise a force of some three or four hundred of their countrymen in expelling the immigrants, but they cannot unite in anything.

"A constant dread of political changes, the arrival of some new authority from Mexico, the overthrow of those in power, or some internal revolution, keeps the country in a continual state of disturbance, and always in debt. Those only who live by absence of law flourish under the present aspect of affairs.

"Many foreigners now hold land under the expectation that the flag of the United States will be hoisted here, and this idea already increases the value of land

"Some of the Californians are quietly waiting for this change, some are indifferent about it, and others are opposed to it. A year or two's experience of United States control, giving these people an opportunity of knowing their own safety, both of person and property, the extreme cheapness of goods to counterbalance the extravagant prices now paid, an increased and constant market for their produce, and the circulation of gold and silver to meet the wants of business, would reconcile them all to the new order of things.

"They are especially in need of a government able to protect them from the Indians, who range at will the whole territory, except the little strip along the coast, and even that is exposed to their frequent raids.

"With a stable government and an industrious race of inhabitants, Upper California could supply all the Polynesian islands, San Blas, Mazatlan, Acapulco, and the northwest coast with wheat, beans, peas, flour, tallow, butter, cheese, pork, beef, bacon, salmon, sardines, horses, mules, spars, boards, shingles, staves, and vessels; and with sufficient capital will have from her own mines gold, silver, lead, sulphur, coal, and slate. It has, perhaps, the largest quicksilver mines in the

world, actually having mountains with veins of ore, extending for leagues, producing over twenty per cent of quicksilver, with but very little expense for outfits.

"The magnificent waters of San Francisco Bay could harbor all the vessels this day afloat in the world!

"Furthermore, as to commerce. The Boston traders generally have two vessels upon the coast at the same time.

"After collecting hides, etc., in company for twelve or eighteen months, one of them returns home, leaving the other until a fresh ship relieves her.

"By this means they keep the work of collecting hides constantly going on. The vessels return home to Boston with from twenty to forty thousand hides, the owner expecting about one hide to each dollar invested in cargo, disbursements, wages, and value of vessel.

"The average of duties received in the seven years ending with the year 1845 was eighty-six thousand dollars a year, and in 1844 the receipts from American vessels were more than three times as much as from those of all others put together.

"There are no Mexican vessels in California, owned by Mexicans or Californians.

"They are owned by foreigners naturalized in the country.

"The laws of Mexico are but little respected, and are observed only when it is for the interest of those concerned.

"Not much regard is paid to the tariff, the collector at Monterey imposing such duties on many articles as he considers requisite at the time.

"Although it is against the laws of Mexico, the gov-

ernor of California has allowed the coasting trade from San Diego to San Francisco to all foreign vessels that have paid their duties at Monterey.

"Very imperfect accounts of custom-house funds ever go to Mexico from the present authorities,—perhaps none whatever. Not a real is ever sent to Mexico, nor does the supreme government ever make requisitions on this department for funds to be sent to the general treasurer.

"In the valley of the Sacramento is the unique establishment of Captain Sutter. To protect his settlement from the Indians, he has built a fort one hundred yards long and sixty yards wide, surrounded by thick and high adobe walls, inclosing all the workshops and houses, and having large gates, which, when closed, give security against Indians or any ordinary hostile attack.

"The establishment consists of farmers, blacksmiths, carpenters, shoemakers, saddlers, hatters, tanners, coopers, weavers, and gunsmiths, and is of the utmost importance to immigrants on their first arrival in California.

"Captain Sutter is a man well informed, of sanguine temperament, and has influence over a greater part of the people of the Sacramento Valley.

"He lives in expectation of this country's coming, ere long, under the flag of the United States."

As I have said, this was the kind of information concerning California which was placed before the government at Washington in the years 1844–45, but it was confidential, and none of it was published.

At the same time, the report of Colonel Frémont's

second exploring expedition was put in print and placed before them, which dispelled many erroneous ideas concerning the geography of the country between the Missouri River and the Pacific Ocean. In this expedition Colonel Frémont came into California, across the Sierra Nevada, arriving at Sutter's Fort on the 8th of March, 1844.

Without visiting the coast or the Bay of San Francisco, he pursued his course southward along the San Joaquin River, and took his way eastward and homeward by way of Walker's Pass, arriving at St. Louis in August, 1844. There was no unnecessary delay in publishing his report and adding it to all the information about California that had been previously obtained.[1]

It was singular that this information came before the public just at the time when the Mormon community was being expelled from Illinois, and was seeking for some place on the continent to which they could remove and be beyond the operation of United States law.

Their leaders evidently conceived the idea that California was the country for them.[2]

[1] "The completed report of the journey was given in on March 1, 1845, and ten thousand copies of the first and second report ordered by Congress."—*Frémont's Memoirs*, p. 415.

[2] At the time the Mormons were hard pressed in Nauvoo, they were in correspondence with a contingent in New York about going West in the spring. And now it was that they fixed their eyes on the Pacific, and conceived the design of planting a colony on its shores, and thither transferring their seat of temporal power.

In the Sacramento *Union* of September 11, 1866, is an article three columns and a half in length, written by a correspondent[1] intimately informed of the facts touching the purposes of the expedition. The writer

[1] This "correspondent," as I have learned, was E. C. Kemble, a passenger from New York, in 1846, by the Mormon ship *Brooklyn*, coming as compositor for their proposed newspaper.

So, in the emergency, their plan evidently was to reach it by both land and water.

A small pioneer company started for Salt Lake early in 1846 and arrived there in the month of July.

On the 4th of February preceding, the ship *Brooklyn* sailed from New York, with 238 men, women, and children on board, bound for San Francisco Bay.

This was not announced as their destination while the ship was lying at the wharf in New York, for they ran up "Oregon" at the masthead.

On board were supplies of every kind requisite for planting a colony, together with arms with which to defend themselves in case of necessity. There were plows and other agricultural implements, flour-mill machinery, a printing-press, and compositor, types, and a stock of paper.

After a five-months' voyage, the *Brooklyn* touched at

says: "What magnificent visions of future empire, of independen t sovereignty, of territorial as well as spiritual conquests, dazzled their westward prophetic gaze will probably never be fully understood, for the reason that the subsequent frustration of their plans and an unforeseen destiny compelled them to cast their lot by the shores of Salt Lake instead of the Pacific."

At the time of which I write, the Mormons were actively planning a march westward for the occupation of the region then known as the Mexican province of Alta California.

The colony going by sea in the *Brooklyn* was only the vanguard of a great army of Mormons to be set in motion in the following spring, destined to the Bay of San Francisco.

But this was a secret. It did not transpire till some time after the arrival of the *Brooklyn* at San Francisco.

Then it came out that this colony was designed by the Nauvoo authorities to unfurl the standard of the Prophet on the shores of the Pacific.

They learned with dismay at Honolulu that the seizure of California by the United States was immediately to take place.

A Honolulu paper said at the time, "So far as we are able to learn, California is now to be the grand central rendezvous of the Mormons, while the beautiful region round the Bay of San Francisco is the chosen spot where the Latter-Day Saints propose to settle."

Honolulu on June 20, 1846, and remained ten days. The United States ship-of-war *Congress* was there at the time, and through Commodore Stockton it became known that it was nearly certain that on his arrival at Monterey the United States flag would be raised and California taken possession of.[1]

The *Congress* reached Monterey on July 15, 1846, and found that Commodore Sloat, of the United States ship *Savannah*, had already raised the flag there, and had taken possession of the country just one week before.

The Mormon ship *Brooklyn* followed, arriving at San Francisco two weeks later, casting anchor on July 31, 1846.

It is a somewhat singular coincidence that the overland emigrants reached Salt Lake on July 24th, just one week earlier than the arrival at San Francisco of those who came around Cape Horn in the *Brooklyn*, and both parties unexpectedly found themselves still under the flag of that "wicked nation" from which they were trying so hard to escape.[2]

It is not easy to imagine what embarrassing complications might have resulted if the Mexican War had not taken place when it did. At any rate, it was a very narrow escape of California from the interference of a power that the experience of later years has taught us is not to be held in light esteem.

At this very time there was another colonization

[1] "At Honolulu we received Mexican papers announcing the beginning of hostilities between the Mexicans and the forces of the United States." — WALTER COLTON, Chaplain of the *Congress*, in *Deck and Port.*

[2] On November 8, 1845, Orson Pratt explained the plan of emigration, *en masse*, beyond the limits of this wicked nation.

scheme [1] maturing in quite another part of the world, having in view a settlement in California.

Its principal agent was Eugene MacNamara, an Irish Catholic priest.

Early in the year 1845 he asked the government at Mexico for a grant of land in California for an Irish Catholic colony.

In his application he represented that the Irish were well adapted by their religion, character, and temperament to colonize a province of Mexico.

He stated that the enterprise had in view three things: first, to advance Catholicism; second, to promote the interests of his countrymen; and third, to place an impediment in the way of the spread of an irreligious and anti-Catholic nation.

In case he should receive the necessary grant of land, he promised to bring, in the shortest possible space of time, two thousand families, and there would be more to follow.

His final petition asked for the land situated between the river San Joaquin and the Sierra Nevada.

In his enterprise he had the powerful support of the Archbishop of Mexico.

As is always the case in such matters, there were

[1] *Frémont's Memoirs*, vol. 1, p. 550.

This is a very full account of this colonization plan.

After describing it, Mr. Frémont says: "The Mexican archives, comprehending the titles to lands in California, were taken possession of by me, and among them the grant to MacNamara. This, with the documents relating to it, I delivered to the government at Washington.

"We cannot fail to sympathize with the grief of a mind which had conceived a project so far-reaching, and which had experienced the shock of overthrow in the moment of its complete success."

When we remember MacNamara's nationality, there seems to be some significance in Mr. Frémont's further statement, that, "after the wreck of his hopes, Father MacNamara left California in Admiral Seymour's [English] flagship, the *Collingwood*.

hindrances and delays, and though his project was favorably considered, there was hesitation.

Becoming impatient, MacNamara urges immediate action.[1]

"Your Excellency knows too well," said he, in his appeal to the President, "that we are surrounded by a vile and skillful enemy, who loses no means, however low they may be, to possess himself of the best lands of that country, and who hates to the death your race and your religion.

"If the means I propose to you are not promptly adopted, your Excellency may rest assured that before a year the Californias will form a part of the American Union."

Having the desired encouragement in Mexico, he came to California, arriving at Santa Bárbara on the 20th of June, 1846.

He immediately submitted his plans to Governor Pio Pico, by whom they were approved and referred to the departmental assembly.

Upon the 7th of July, that body gave its approval of the plan, referring it back to the governor for consummation. But it was too late!

On the morning of that very day the flag of the United States was hoisted at Monterey, and no more land grants were ever executed under the authority of Mexico.

The existence of these schemes for the colonization of California shows most clearly the widespread interest in the country at that time, both at home and abroad, and explains the anxiety of the United States government that the right opportunity for acquiring it should by no means be missed.

[1] *Frémont's Memoirs*, vol. 1, p. 552.

CHAPTER III.

Approach of the Mexican War — Notification of the Navy on the Pacific — Secretary Bancroft's Dispatch of June 24, 1845 — The Opening of the War on the Rio Grande in 1846 — News Reaches Commodore Sloat at Mazatlan — His Uncertainty — Sails to Monterey — Hears of Frémont and the Bear Flag — Is Perplexed, but Raises the United States Flag, July 7, 1846.

In the year 1845, things were evidently fast approaching a crisis.

The administration, however, determined to acquire California by peaceful measures, if possible. At the suggestion of Secretary of State Buchanan, Mr. Slidell was sent to Mexico, authorized to negotiate for its acquisition by purchase, if possible. But Mexico, having just lost Texas, was in no mood to treat with the United States on any matter, much less concerning parting with any more territory! So our envoy extraordinary and minister plenipotentiary was not even received and there ended the attempt at negotiation.

Then it was evident that war with Mexico was imminent.

At that time there were several ships of our navy on or near this coast, but it took four or five months, at least, to communicate with them from Washington. So Secretary of the Navy George Bancroft sent a dispatch[1] to Commodore Sloat, who was then at Maza-

[1] June 24, 1845. Secretary George Bancroft to Commodore Sloat (secret and confidential): —

"Your attention is still particularly directed to the present relations between this country and Mexico. It is the earnest desire of the Presi-

tlan, and was in command of them all, informing him of the possibility of the breaking out of war with Mexico, and directing him to hold his forces in readiness, as soon as he should learn of the occurrence of hostilities or the declaration of war, to take possession of San Francisco, and of the ports along the coast of California.

This dispatch was dated June 24, 1845, very nearly a year before the opening of the war, and was sent by way of Panamá, and if there was no delay in its transmission, it reached him in the early fall of that year. It was followed by another, of still greater urgency, dated August 5, 1845, and still another, dated October 17, 1845, and by another, dated February 23, 1846, sent overland through Mexico.

The period of time occupied by this correspondence, it will be observed, covers nearly the entire year immediately preceding the breaking out of the Mexican War.[1]

dent to pursue the policy of peace, and he is anxious that you and every part of your squadron should be assiduously careful to avoid any act which could be construed as an act of aggression. Should Mexico, however, be resolutely bent on hostilities, you will be mindful to protect the persons and the interests of citizens of the United States near your station; and should you ascertain beyond a doubt that the Mexican government has declared war against us, you will at once employ the force under your command to the best advantage. . . .

"If you ascertain with certainty that Mexico has declared war against the United States, you will at once possess yourself of the port of San Francisco, and blockade or occupy such other ports as your force may permit. . . . You will be careful to preserve, if possible, the most friendly relations with the inhabitants, and where you can do so, you will encourage them to adopt a course of neutrality." — *Cutts*, p. 252.

[1] James K. Polk became President, March 4, 1845, and appointed on his Cabinet, James Buchanan, Secretary of State, William L. Marcy, Secretary of War, and George Bancroft, Secretary of the Navy.

Secretary Bancroft sent the order to the navy on the Pacific, in the event of war with Mexico, to take immediate possession of the ports of California and hold them. He was foremost in acquiring the country. He was not less distinguished as a statesman than as a historian.

At length the war opened with the battle of Palo Alto and Resaca de la Palma, on the Rio Grande, on the 8th and 9th of May, 1846.

The news flew with swiftness across Mexico, and was the theme of excited talk in all public places.

Just then Dr. W. H. Wood, fleet surgeon of Commodore Sloat's squadron, had received permission to return home, and took the route through Mexico, accompanied by Mr. Parrott, United States consul at Mazatlan. They arrived at Guadalajara on May 10th, and found the town in a high state of agitation arising from the war rumors. The Mexican papers gave exaggerated accounts of what had occurred on the Rio Grande, and the feelings of the people were highly excited.

Dr. Wood immediately wrote a dispatch, giving the news as he heard it, and sent it back, under cover from Consul Parrott, to Commodore Sloat at Mazatlan.[1]

The messenger was induced to promise all possible speed, and he actually did ten days' work in five, delivering his dispatch to Commodore Sloat on May 17, 1846.[2] On the 18th, Commodore Sloat sent the *Cayene* to Monterey with a letter to Consul Larkin, marked "Strictly confidential," telling him of the news of hostilities on the north bank of the Rio Grande, and saying to him:—

"It is my intention to visit your place immediately, and from instructions I have received from my government, I am led to hope that you will be prepared to put me in possession of the necessary information,

[1] *McWhorter's Historical Paper before the New York Historical Society.*
[2] *Bancroft's History*, vol. 22, p. 191.

and consult and advise with me on the course of operations I may be disposed to make on the coast of California. I shall call at Monterey first, and hope to be there as soon as this, which goes by the *Cayene*."

But Commodore Sloat, for some reason, changed his mind, and remained at Mazatlan, notwithstanding the very specific directions of Secretary Bancroft.

On May 31st, fourteen days after he received the dispatch sent by Dr. Wood, telling him of the flying rumors of the commencement of hostilities, the news of General Taylor's battles on the 8th and 9th of May came, confirming the rumors.

He did not then sail for Monterey, but sent the *Levant*, and wrote to the Secretary of the Navy: "I have received such intelligence as I think will justify me in acting upon your order of June 24, 1845, and shall sail immediately to see what can be done."

On the 5th of June, he received still further particulars, with the added fact that Matamoras had been captured and occupied.

On the next day he wrote to Secretary Bancroft:—

"I have, upon more mature reflection, come to the conclusion that your instructions of June 24, 1845, and every subsequent order, will not justify my taking possession of any port of California, or any hostile measures against Mexico (notwithstanding their attack on our troops), as neither party have declared war.

"I shall therefore, in conformity with those instructions, be careful to avoid any act of aggression until I am certain one or the other party have done so, or until I find that our squadron in the Gulf have commenced offensive operations."

But again he changed his mind, and writes to the Secretary of the Navy: —

"These hostilities I considered would justify my commencing offensive operations on the west coast. I therefore sailed on the 8th of June, 1846, for the coast of California, to carry out the orders of the department of the 24th of June, 1845, leaving the *Warren* at Mazatlan to bring dispatches."

Leaving Commodore Sloat on his way to Monterey in the *Savannah*, we may judge of the great anxiety felt at Washington at this critical time, when we read the dispatch written to him on May 13, 1846, four days after General Taylor's battles.[1]

"*Commodore:* The state of things alluded to in my letter of June 24, 1845, has occurred. You will therefore now be governed by the instructions therein contained, and carry into effect the orders then communicated with energy and promptitude, and adopt such other measures for the protection of the persons and interests, the rights and the commerce, of the citizens of the United States as your sound judgment may deem to be required. . . . Commending you and your ships' companies to Divine Providence,

"I am, respectfully,

"Your obedient servant,

"George Bancroft."

It is obvious to us now how sorely the stimulus of this dispatch was needed by the Commodore, but, unfortunately, months must pass before he could receive it, and the all-important decision must be made before that time.

[1] *Cutts's Conquest*, p. 253. It was on this same day on which this letter was written that President Polk declared war with Mexico.

It actually awakens feelings of solicitude in us even now, to read of any hesitancy and delay here, when it was so liable to lose us so large and choice a portion of the continent.

From the "log" of the United States frigate *Savannah*, Commodore Sloat, we extract the following: —

"JUNE 7, 1846.

"News received of the blockade of Vera Cruz by the American squadron.

"At 2 P.M. got under way for Monterey, California."

"JULY 1st.

"Stood into the harbor of Monterey, and came to anchor at 4 P.M., in front of the town. *Cayene* and *Levant* in port.

"JULY 2d.

"Thomas O. Larkin, United States consul, made a long call.

"JULY 3d.

"Called upon the authorities.

"JULY 4th.

"Ship dressed; salute fired.

"JULY 5th.

"Divine service.

"JULY 6th.

"Mr. Larkin spent the day on board, preparing proclamations, etc., for taking possession of California to-morrow.

"JULY 7th.

"7 A.M. Landing forces; took possession; hoisted flag."

And so the decisive deed was done!

But it was not done without much hesitation.

Mr. Larkin was strongly of the opinion that the California authorities would voluntarily put themselves under the protection of the United States, if they could have a couple of weeks' time to come to an agreement.

And we remember how constantly the government at Washington had been urging on Mr. Larkin a conciliatory policy toward the Californians. Furthermore, Commodore Sloat must have remembered that a messenger — Lieutenant Gillespie, from the government at Washington — reached him at Mazatlan, with authority to ask of him immediate transportation to California, and that on February 22, 1846, he had sent him forward in the *Cayene*, but did not know what orders he carried, or what bearing they had on the present situation.

Moreover, near the end of March, news of Colonel Frémont's trouble with Castro in California reached him at Mazatlan, from Monterey, whereupon, on April 1st, he sent the *Portsmouth* to San Francisco.

And now, on reaching California himself, he hears that Colonel Frémont with his surveying party is in the Sacramento Valley, and that a party of "settlers" is gathered around him, and that, apparently under his authority, some officers and citizens of the Mexican government have been taken captive and imprisoned!

This had occurred only about two weeks before, and the facts were then only imperfectly understood in Monterey. What could it all mean? Had Colonel Frémont authority to do this? Mr. Larkin could not tell.

No one knew. But it was to be presumed that he would not begin actual war without authority.

And ought he to land his marines and take possession of the country without knowing under what orders Colonel Frémont was acting?

It is not strange that Commodore Sloat was perplexed. A man of much more decision of character than he would be thrown into uncertainty in like circumstances.

It is hardly surprising that even under the positive orders of June 24, 1845, he delayed an entire week after he arrived at Monterey before raising the flag. Finally, saying, in his perplexity, "I would prefer being sacrificed for doing too much than too little," he gave orders for the lowering of the Mexican flag, and the raising of the flag of the United States in its place, which was done with proper ceremony on July 7, 1846.

CHAPTER IV.

The Government's Plan for the Conquest of California — Dispatch to Commodore Sloat, of the Navy, June 3, 1846 — Orders given to General Kearny, of the Army, same date — Kearny, with the "Army of the West," Reaches Santa Fé — Proceeds with Three Hundred Dragoons to California — On October 6th, Meets Kit Carson on his way to Washington with News of Conquest of California Accomplished — Turns back Two Hundred of his Dragoons — Advances with One Hundred — Suffers at San Pasqual — Reaches San Diego, December 12, 1846.

RIGHT here is as good a place as any to give the outline of "the plan of campaign" decided on by the administration at Washington in 1846 for the conquest of California, because, on account of the great distance of this coast from Washington, this government plan was materially interfered with.

On tracing that plan from its inception, the point where the interference took place will clearly appear, as well as who were the parties responsible for it.

As we have seen, orders were sent in 1845 to the commanders of the Pacific squadron, directing them how to proceed in case they should ascertain that war had broken out with Mexico.

Next after taking possession of the ports and holding them, they were directed again and again to maintain as friendly relations with the inhabitants as possible, and this injunction is repeated in every official communication.[1]

1 Secretary Bancroft to Commodore Sloat: —

"WASHINGTON, June 8, 1846.

"*Commodore:* . . . It is rumored that the province of California is well disposed to accede to friendly relations with the United States. You will encourage the people of that region to enter into relations of amity with our country. In taking possession of their harbors, you will,

The plans of army movements were equally matured, and ready to be put in instant execution upon the occurrence of hostilities.

They began on the Rio Grande on the 8th and 9th of May, 1846.

The existence of war with Mexico was recognized by the act of Congress of May 13, 1846.

At once the "Army of the West" was organized, to be commanded by Gen. S. W. Kearny, with the object of "taking the earliest possible possession of Upper California."

General Kearny was educated at Columbia College, and had had long experience in army life, especially in frontier service and military expeditions in the Indian country. In them he acquired a knowledge of the resources of Western life and of the physical features of the country through which he must pass, and these all-round qualifications pointed him out to the President as the man to lead this most important expedition.[1]

if possible, endeavor to establish the supremacy of the American flag without any strife with the people of California.

"If California separates herself from our enemy, the central Mexican government, and establishes a government of its own under the auspices of the American flag, you will take such measures as will best promote the attachment of the people of California to the United States, will advance their prosperity, and will make that vast region a desirable place of residence for emigrants from our soil.

"You will bear in mind, generally, that this country desires to find in California a friend, and not an enemy; to be connected with it by near ties; to hold possession of it, if possible, with the consent of its inhabitants."

[1] The Secretary of War to General Kearny (confidential): —

"WASHINGTON, June 3, 1846.

"It has been decided by the President to be of the greatest importance in the pending war with Mexico to take the earliest possession of Upper California. An expedition with that view is hereby ordered, and you are designated to command it. . . .

"It is expected that the naval forces of the United States which are

"Preparations were pushed forward with the utmost vigor. Ordnance, subsistence, near a thousand mules

now, or soon will be, in the Pacific will be in possession of all the towns on the sea-coast, and will co-operate with you in the conquest of California.

"Should you conquer and take possession of New Mexico and Upper California, or considerable places in either, you will establish temporary civil governments therein.

"It is foreseen that what relates to the civil government will be a difficult and unpleasant part of your duty, and must necessarily be left to your own discretion."

The Secretary of the Navy to Commodore Sloat: —

"WASHINGTON, May 15, 1846.

" . . . You will consider the most important public object to be to take and to hold possession of San Francisco, and this you will do without fail."

To Commodore Shubrick: —

"WASHINGTON, August 17, 1846.

" . . . The relations to be maintained with the people of Upper California are to be as friendly as possible.

"The flag of the United States must be raised, but under it the people are to be allowed as much liberty of self-government as is consistent with the general occupation of the country by the United States.

" . . . The President expects and requires the most cordial and effectual co-operation between the officers of the two services in taking possession of and holding the ports and positions of the enemy which are designated in the instructions to either or both branches of the service, and will hold any commander of either branch to a strict responsibility for any failure to preserve harmony and secure the objects proposed."

To Commodore Stockton (confidential): —

"WASHINGTON, November 5, 1846.

" . . . The Secretary of War has ordered Col. R. B. Mason to proceed to California *via* Panamá, who will command the troops and conduct the military operations in the Mexican territory bordering on the Pacific, in the absence of General Kearny. The commander of the naval forces will consult and co-operate with him in his command. . . .

"The President has deemed it best for the public interest to invest the military officer commanding with the direction of the operations on land and with the administrative functions of government over the people and territory occupied by us. You will relinquish to Colonel Mason or General Kearny, if the latter shall arrive before you have done so, the entire control over these matters, and turn over to him all papers necessary to the performance of his duties.

" . . . The President directs me to impress most earnestly on the naval officers, as it is impressed on those of the army, the importance of harmony in the performance of their delicate duties while co-operating."

for draught, several hundred horses for the ordnance and for mounting the dragoons, at least three hundred wagons, baggage trains, etc., and other stores in proportion, were collected in June."

By the last days of June all was in readiness, and the trumpet sounded for movement. The long train took up its line of march westward from Fort Leavenworth,—first, to Santa Fé, New Mexico, and then to California. The march was so arranged that the successive battalions, stock, animals, trains, etc., might not interfere with the subsistence, foraging, and celerity of the march.

In fifty days, after a march of nine hundred miles, Santa Fé was reached, and the large Mexican force estimated at four thousand, had fled. Possession was taken of the whole of New Mexico for the United States.

Without unnecessary delay, General Kearny prepared to proceed on his way to California,—a march of a thousand miles, a great portion of which was desert.

His command, consisting of three hundred United States dragoons, was all mounted on mules, and the wagons were drawn by the same hardy animals.

On September 25, 1846, he set out on his long journey. Having passed Albuquerque, on the 6th of October they met an express, direct from California, with a mail of public letters for Washington.

From Mr. Carson, the messenger, he learns that, in July, Commodore Stockton with the naval force, and Colonel Frémont acting in concert, commenced to revolutionize the country and place it under the American flag; that in the space of two weeks the

work was done, and Mr. Carson was dispatched with a party to carry the news across the continent by way of the Gila, and deliver the mail to the government at Washington.

Trusting to the accuracy of this information, General Kearny issued an order reducing his command from three hundred to one hundred men, and sent two hundred for service farther south in Mexico.

For if the conquest of California was already complete, one hundred dragoons, together with reinforcements which he knew he would soon have, would be amply sufficient to keep the peace.

But the news which led him to thus reduce his force turned out to be premature. It was sent too soon. It was intended for Washington; but by accident falling into his hands just when it did, it led him to make a very costly mistake. We shall see how this came about, a little later.

The march across the desert was now one of severe hardship. For lack of water and grass, a great many animals gave out, and had to be left behind; but the command pressed on through October and November, and into December, when they were nearing California.

On the second day of the latter month, they met some Californians escaping out of the country. From them they learned that the war was by no means over! They were told that hostile parties of *rancheros* were to be found in every quarter.

This intelligence was far from welcome to them in their reduced condition. They were few in number, weary and worn by a long desert march; their animals that got through at all were weakened and disabled;

and now, instead of entering a country subdued and at peace, as they had been led to expect, they must confront hostile forces of unknown strength.

They were now, on December 5, 1846, within about fifty miles of San Diego. During the night they ascertained that an armed, well-mounted party of Californians was at San Pasqual, a few miles in front of them. General Kearny at once determined to march and attack them by daybreak.

The charge was made on the morning of December 6th, and was successful, though made, as it was afterwards learned, against a well-prepared enemy of twice their number. But the victory was gained at great cost. Some fifteen or more lives were lost, and many were wounded, among whom was General Kearny himself.

At that time Commodore Stockton was at San Diego, having landed his marines, and was preparing to march them north to retake Los Angeles, which was the stronghold of the hostile Californians.

As soon as he learned of the arrival of General Kearny and his men, and of their unfortunate encounter with the enemy, he dispatched a party of sailors and marines to their assistance, and on the 12th of December, 1846, they reached San Diego.

This unfortunate affair, it will be noticed, was in consequence of the premature news of an accomplished conquest, sent East by express, which met General Kearny, and induced him to reduce his force from three hundred to one hundred men, and so exposed him to this disaster.

It does not seem to have been in consequence of a

misjudgment on his part, but rather of a too hasty report of a conquered peace sent forward by Commodore Stockton and Colonel Frémont.

In reducing his number of men from three hundred to one hundred on the march, he relied not only on the glowing peace dispatch carried by Mr. Carson, but on the support of additional troops on the way, and very soon to arrive, belonging to the "Army of the West." There was the Mormon Battalion, that was coming overland, and its arrival was looked for at that very time. And then the transport ship *Lexington*, which was on the way around Cape Horn, was nearly due, with artillery, ordnance stores, and supplies in abundance. And soon to follow were the transport ships bringing Stevenson's Regiment, consisting of a thousand men, with all needed military stores.

In addition to all this was the force of American settlers living north of the Bay of San Francisco and in the Sacramento Valley, which the authorities in Washington had heard could be enlisted to serve in upholding the flag in California. These also were counted as a part of the force to be enlisted and to serve under General Kearny.

All these details go to show how well laid and well timed the plans of the administration were for the accomplishment of the conquest of California. The concentration of so irresistible a force by sea and land would have prevented any show of resistance on the part of the native forces, and in all probability would have given us the country without the shedding of a drop of blood.

CHAPTER V.

"The Government Plan" Interfered with—History of the Interference—Colonel Frémont and his Surveying Party, 1846—Is Ordered to Leave—Goes North to Oregon Line—Lieutenant Gillespie, from Washington, Reaches Him—Frémont and Party Return to Sacramento Valley—Settlers Gather at his Camp—Vallejo and Others Captured at Sonoma and Imprisoned at Sutter's Fort—The Bear Flag—The Bear Flag Battalion on the American Fork—News of Commodore Sloat at Monterey and Raising of the Flag—Frémont and Battalion reach Monterey—Commodore Sloat leaves, and Commodore Stockton takes Command.

But the plan of the government was interfered with before its complete accomplishment, by an unforeseen agency originating here in California itself, and under our own flag. And this agency needs here to be described. It was that of Col. J. C. Frémont, who was here at the time with his surveying party of sixty-two mounted and well-armed men and about two hundred horses. He wished, in the winter of 1845–46, to bring his party into the settlements in order to refit and obtain supplies.

Going himself to Monterey, he visited the proper authorities with United States Consul Larkin, and asked the liberty he needed. It was readily granted, and during his two days' stay in Monterey he was treated with every courtesy. By the middle of February, 1846, his party was together in the valley of San José.

But whether on account of friction with the residents and the local authorities, or because of stringent orders just received from Mexico, now getting

very jealous of foreigners in any part of her territory, as he was moving with his party toward the San Joaquin Valley he received a very peremptory order to leave the department, and force was threatened if it was not instantly obeyed![1] Very much astonished, and not a little irritated, he halted for a few days to let it be known that he was not to be driven, and then took his way leisurely northward toward Sutter's Fort, and thence up the valley of the Sacramento toward Oregon.

But there was more in Colonel Frémont's mind at that time than could be known to others.

Before he left Washington in May, 1845, to conduct this survey, he became acquainted with the expectation of the government that war with Mexico was inevitable.

His father-in-law, Colonel Benton, was chairman of the Senate Committee on Military Affairs, and was in intimate relations with President Polk and the members of his Cabinet.

And being about to start on so long a journey to a country that it was determined should be taken possession of immediately in case war should take place, it

[1] There has been a letter recently published, purporting to have been written at this time by Colonel Frémont in reply to a demand of the alcalde of San José that he should appear before his court and answer to the charge of having stolen horses in his possession.

Colonel Frémont's letter is dated "February 21, 1846," and denies the charge, but refuses to obey the summons of the court.

In reply to this, there appears a letter from General Castro, charging on him contempt of the civil authorities, and ordering him to leave at once, or an adequate force would compel him to do so.

"There is every reason to believe that Frémont's secret policy was to provoke the Californians to attack him, or to take some other step against the Americans which should furnish a pretext for war." — *Hittell*, vol. 2, p. 419.

is not strange that his mind was filled with the plans and purposes of which he, of course, heard so much. All this could not help but give a coloring to his thoughts and quicken his anticipations while on his journeys.

The influence of these things must be taken into account in judging of the course he took a year later in California affairs.

Much has been written concerning that course,—some in warm approval, and some in just as warm disapproval.

I have read all I could lay my hands on, and tried to read with an open mind.

Soon after the events in which he took the leading part, I became personally acquainted with many men of that time,—men who not only knew of all that was going on, but bore a prominent part in it.

After all the excitements of the time of conflict were over, and the unknown things could be explained, it was easy to gather from the actors in those exciting scenes the connecting links of events and trace the thread of the story.

In what I say concerning the course taken by Colonel Frémont, which so decidedly interfered with the plans of the administration at Washington, I follow Colonel Frémont's own narrative as given before the court-martial in 1847 and in his autobiography published in 1887.

We left him and his party on the upper Sacramento, seeking to find a way through the mountains to the Willamette Valley, in Oregon. Before the middle of May they had reached the northern shore of

Klamath Lake, and were there encamped on the 9th of May, 1846. On the evening of that day, he says in his *Memoirs*, "as I was standing alone by my camp-fire, enjoying its warmth, suddenly my ear caught the faint sound of horses' feet, and while I was watching and listening as the sounds, so strange hereabout, came nearer, there emerged from the darkness, into the circle of the firelight, two horsemen, riding slowly, as though horse and man were fatigued by long traveling." The men had hastened forward with all speed to tell him that a messenger was behind, who had come all the way from Washington to find him! At dawn of day he started, and after a day's ride, found that the messenger was Lieutenant Gillespie, of the Marine Corps, and, as may be imagined, the greeting was most cordial.

Gillespie had left Washington in the November before, had traveled across Mexico to Mazatlan, reaching there in February, 1846, and was sent forward by Commodore Sloat in the United States ship *Cayene* to Monterey, arriving April 17, 1846, where he delivered his dispatch to United States Consul Larkin, and then pursued his journey up the Sacramento Valley to find Colonel Frémont.

Now, this was manifestly an exceedingly significant mission. It excited keen suspicion in Monterey at the time, and came near bringing about his detention there. The question was, What was its significance? What did it mean? Nobody knew. And, strange to to say, it remained unknown for nearly twoscore years, and the very fact that it was unknown had a decisive influence on the course of events at the time.

The immediate effect of it was seen in the return of Colonel Frémont and his party to the Sacramento Valley.

That fact could not help signifying to all the scattered inhabitants of the valley that Colonel Frémont had received important communications from the government at Washington, and that what he did was under that authority.[1]

No wonder that the settlers came riding into his camp to learn what was going to be done. He did not tell them what his orders were. They could not expect him to do that. But they would certainly believe that the opinions he expressed and the measures he proposed were those that would receive the sanction and support of the government.[2]

This put him in a position of almost unlimited influence.

Furthermore, as he was now in want of money and supplies for his party, he sends Lieutenant Gillespie to San Francisco to ask for them from the United States ship-of-war *Portsmouth*, Captain Montgomery, and gets them.

What more could he have to assure to himself, in the public mind, the position of confidential agent of his government in this far-away country?

This position he assumed, and proceeded to act accordingly.

[1] The contents of that dispatch was not ascertained till Mr. H. H. Bancroft, in his historical researches, found it, and Professor Royce verified the copy with the copy on record in the department at Washington. That puts it beyond question.

[2] "Whatever Frémont did was supposed to be done with the sanction of the United States." — GENERAL BIDWELL, in the *Century Magazine*, Feb., 1891, p. 519.

It was through him, supported by his surveying party and the settlers in the northern valleys, that a war of revolution against the government of Mexico was commenced early in June, 1846.[1] General Vallejo, the Mexican military commandant, with his friends, were captured on the 14th of June, 1846, at Sonoma, and imprisoned in Sutter's Fort.

This made the situation critical; something more must be done immediately.

That something more, as he himself testified before the court-martial, was to be "the total overthrow of Mexican authority in California, and the establishment of an independent government in that extensive province."[2]

In connection with what is known as "the Bear Flag" movement, the settlers were assembled in Sonoma on the 5th of July, 1846, and were organized by Colonel Frémont into a battalion consisting of four companies numbering two hundred and twenty-four men.[3]

With them he set out for his encampment on the American Fork, which he reached on July 9, 1846.

He is quite aware of the gravity of the undertaking he has on hand, for he says in his *Memoirs*, "In order to place it in the power of my government to disavow my action, should it become expedient to do so, I drew up my resignation from the army, to be sent by

1 It is in evidence that no sooner had Colonel Frémont and Lieutenant Gillespie returned from Oregon to the Sacramento Valley than an anonymous circular was sent to the settlers, far and near, reciting their wrongs and their dangers, and notifying them to meet at Frémont's camp.

2 *Court-Martial and Trial*, p. 374.

3 Inasmuch as the Bear Flag movement had no significance after the men who supported it marched away under Colonel Frémont, I do not think it necessary to give a further description of it here.

the first opportunity to Senator Benton, for transmission to the War Department, in the event of such a contingency."[1]

This shows, surely, that he knows he is not authorized to take the course he is pursuing.

And, furthermore, he knows that there is no need of the establishment of an "independent government," because he had just been informed that the country is on the very eve of being taken possession of by the United States.

This he himself clearly states in a letter addressed to Captain Montgomery, of the *Portsmouth*, then in the harbor of San Francisco, and dated Sonoma, July 5, 1846: "I trust that by the time you receive this note, the arrival of Commodore Sloat will have put an end to your neutral position."[2]

This evidently has reference to a remark of Captain Montgomery's, in a letter to him, of June 23, 1846, in which he says he is obliged to preserve "a strict neutrality."

If Commodore Sloat could be looked for any day to raise the United States flag, and thus put an end to "neutrality," why was it necessary to begin a private war, imprison citizens, sacrifice lives, and inflame the public mind?

Why was it necessary for so brief a time to organize a battalion of armed men, and declare an "independent government," when he knew his own government was so soon to take control?

Much was said at the time about orders coming from

[1] *Frémont's Memoirs*, vol. 1, p. 520.
[2] *Frémont's Memoirs*, vol. 1, p. 529.

Mexico, requiring the California authorities to drive out the settlers. Some years ago I asked General Vallejo about this.

He replied that there were rumors of the kind. "But where," he asked, "is there a paper extant from any California official to corroborate any such assertion?" And he went on to say, "At the very period when it is alleged that Commandante Castro was acting in this way, he directed me to issue passports to any respectable foreigners and authorizations of settlement to those applying for the same, and Castro was at the time giving such papers."

He said further, "Years before, instructions were sent to me from Mexico at once to force the immigrants to recross the Sierra Nevada and depart from the territory of the republic. But, to say nothing of the inhumanity of these orders, their execution was physically impossible,—first, because I had no military force; and second, because the immigrants came in the autumn, when the snow covered the Sierras so quickly as to render return impracticable.

"Under the circumstances, not only I, but Commandante Castro, resolved to provide the immigrants with letters of security, that they might remain temporarily in the country.

"We always made a show of authority, but were well convinced all the time that we had no power to resist the invasion which was coming in upon us."

There are reliable witnesses, some of whom are now living, who say that before the arrest and imprisonment of General Vallejo and his friends, there was no prevailing uneasiness among the settlers from fear of being disturbed by the California authorities.

Nor was there ground for any unusual anxiety concerning Indian raids, to which, however, the farms were always exposed.

These things, all told, do not seem, at this distance of time, to have called for warlike measures in northern California at that time.[1]

And certainly no orders brought to Colonel Frémont by Lieutenant Gillespie from the government at Washington so much as suggested it.

On the contrary, the dispatch brought by Lieutenant Gillespie, as we now know, directed a very different course of proceeding. It was addressed to Consul Larkin, but was to be repeated to Colonel Frémont.

It was written in Washington in November, 1845, fully six months before the breaking out of the Mexican War, and while the administration was doing its utmost to secure California by the consent of her own authorities.

It says nothing about war! By no means. It refers to the information concerning California received for a long time from Mr. Larkin, and says that the government has become deeply interested in the country, and is especially desirous that it should never come under the dominion of any European power.

[1] "Rumors of threats of Californians against foreigners had been frequent, one in 1841 and one in 1845, but they turned out to be groundless, and apprehension ceased, especially as we had Sutter's Fort. And now, in 1846, after so much immigration, we felt entirely secure, even without the presence of a United States officer [Frémont] and sixty men, — until we found ourselves suddenly plunged into war!

"But hostilities having been begun, bringing danger where none before existed, it now became imperative to organize.

"It was in every one's mouth — and I think it must have come from Frémont — that war was begun in defense of American settlers. This was simply a pretense to justify the premature beginning of war, which henceforth was to be carried on in the name of the United States.

"Frémont neither averred nor denied acting under orders from the United States." — General Bidwell, in *Century Magazine*, Feb., 1891, p. 522.

If the people should desire to unite their destiny with ours, they would be received as brethren, whenever this can be done without affording Mexico just cause of complaint.

This was the tone of the dispatch brought by Lieutenant Gillespie to Mr. Larkin, and it was to be given also to Colonel Frémont. And he says himself, in a letter written to Senator Benton, after the receipt of the family package by Lieutenant Gillespie, and dated Sacramento River, May 4, 1846, "Your letter led me to expect some communication from him [Mr. Buchanan], but I received nothing."

It hardly needs to be said that there was no warrant in this dispatch for any such warlike proceedings as Colonel Frémont returned to the Sacramento Valley and at once initiated.[1]

But the people supposed he had such warrant, and they rallied around him accordingly.

He never said so, nor did he deny it, till, as we shall see, when he comes to meet Commodore Sloat, and is asked the direct question of his authority by him, he replies:[2] "I acted solely on my own responsi-

[1] In his testimony before the Court of Claims, Colonel Frémont said, concerning the information given him by Lieutenant Gillespie, "He informed me that he had been directed by the Secretary of State to find me and acquaint me with his instructions, which had for their principal object, to ascertain the disposition of the California people, to conciliate their feelings in favor of the United States, and find out, with a design of counteracting, the design of the British government upon that country."

[2] *Frémont's Memoirs*, vol. 1, p. 534.

"He [Commodore Sloat] asked to know under what instructions I had acted in taking up arms against the Mexican authorities.

"'I do not know by what authority you are acting,' said he. 'I can do nothing. Mr. Gillespie has told me nothing; he came to Mazatlan, and I sent him to Monterey, but I know nothing. I want to know by what authority you are acting.'

"I informed him that I acted solely," etc.

bility, and without any expressed authority from the government to justify hostilities."

What encouragement to this course of action Colonel Frémont received from his father-in-law, Senator Benton, we do not know, nor does it concern us to know, but it is certain that he received none from any recorded orders of the government. That is the important thing to know.

He was, without doubt, patriotic in the course he chose to take, though it is exceedingly difficult to reconcile it with the fact that he asked no advice of Consul Larkin, not even sending him word of what he was going to do, but the consequences were disastrous to him, and interfered sadly with the plan of campaign so comprehensively and thoroughly laid by the government in Washington. And it continued to interfere with that plan until the close of the war, as we shall see.

But now to resume the thread of our narrative.

We left Colonel Frémont with the battalion which he formed from the "Bear Flag" men in Sonoma on the 5th of July, on the American Fork, which he reached on July 9, 1846.

On the evening of the 10th, when not far from Sutter's Fort, an express reached him, announcing the arrival of Commodore Sloat at Monterey, and the raising of the American flag there and at San Francisco, and requesting that it be raised at Sutter's Fort. This was accordingly done at sunrise the next morning, under a salute of twenty-one guns, amid general rejoicing among the people.

Two days later, another express reached him from

Commodore Sloat, with a letter dated July 9, 1846, in which he said to him, "I am extremely anxious to see you at your earliest convenience; and should General Castro consent to enter into a capitulation, it is of the utmost importance that you should be present."[1]

No wonder the Commodore was anxious to see a man—an officer of the army who had assumed such authority—who had imprisoned California military officers, had conducted movements that had resulted in the death of a number of men, to say nothing of the seizure and appropriation of private property, and, in a word, had proceeded to levy war on this department.

It was to be presumed, of course, that he must have received very special orders from the government at Washington, of which it was vitally important for him (Sloat) to know, in the present exigency. The Commodore's remark relative to General Castro's possible willingness "to enter into a capitulation" shows that he has knowledge of the wishes of the government concerning obtaining as peaceful an acquisition of California as possible; consequently the warlike operations of which he hears seem to him utterly inexplicable!

Ten days later, on the 19th of July, 1846, Colonel Frémont, with one hundred and sixty mounted men, reached Monterey, and the interview between him and Commodore Sloat took place as before described.

The situation appeared to the Commodore to be one of such gravity, that here, where he could not commu-

[1] *Frémont's Memoirs*, vol. 1, p. 530.

nicate with his government and learn their wishes, he shrank from the responsibility.

He was a man, at that time, sixty-six years old, his health was impaired, and he had, some time before, asked to be called home.

Four days before, on the 15th day of July, 1846, the United States frigate *Congress*, Commodore R. F. Stockton, arrived at Monterey.

This afforded Commodore Sloat the desired opportunity to be relieved, and he immediately turned over his command to Commodore Stockton and sailed for home.

CHAPTER VI.

Stockton and Frémont Undertake the Conquest of California — They Take Santa Bárbara, San Diego, and Los Angeles, and Report Conquest Accomplished — Stockton Assumes the Title of Governor, and Sends a Dispatch to Washington by Kit Carson, who meets General Kearny and his Dragoons Coming to California — Believing the Conquest Accomplished, he Sends back Two Hundred Dragoons and Comes on with One Hundred — But, in California, "Conquest" not Permanent — Southern Portion in Arms — General Kearny, on Reaching California, Finds it so — The San Pasqual Affair — He Finds Commodore Stockton and his Marines Preparing to Retake Los Angeles, December 12, 1846.

This put an entirely new phase on affairs.

Stockton proved to be a man quite as willing to take liberties with his orders as was Frémont himself.

His orders at this time were simply those under which Commodore Sloat had been acting, dated at Washington, June 24, 1845, for none were issued after that till nearly a year later, when war had actually commenced, and then Secretary Bancroft issued an order, dated May 13, 1846, which was now on the way, but if it had been in Commodore Stockton's hands when he was taking command, it would only have, in substance, directed him to carry out the orders of June 24, 1845. These orders, as we remember, required him "to possess himself of the port of San Francisco, and blockade or occupy such other ports as your force may permit."

"You will be careful to preserve, if possible, the most friendly relations with the inhabitants, and where you can do so, you will encourage them to adopt a course of neutrality."

This order, it will be perceived, says not a word about "the conquest of the country," or the organizing of a land force to that end.

Indeed, Commodore Stockton afterward acknowledged that he had received at this time no other order than that left to him by Commodore Sloat.[1]

But under this order we shall soon see what he takes upon himself to do.

He and Colonel Frémont have an early interview, and find themselves of the same mind as to assuming responsibility.

It was at once determined by them not only "to take possession of the ports," but with the help of Frémont and Gillespie and the Bear Flag Battalion to attempt the conquest of the whole country!

No such movement as this was suggested by any of the instructions from Washington, or anticipated by the government, and therefore, as might easily have been foreseen, would be liable to clash with the execution of plans formed there.

Commodore Sloat had issued an address to the people when he raised the flag on the 7th of July in accord with his instructions, and in conference with Consul Larkin. Of course it was conciliatory in its tone, and perhaps it was made to be more so on account of the warlike action of the "Bears" at Sonoma a month before.

But now, when he is gone, and Commodore Stockton takes his place, he, in turn, on July 29, 1846, issues his proclamation.

[1] *Frémont's Court-Martial*, p. 198. Commodore Stockton's testimony: "I think I received no other instructions, except those Commodore Sloat turned over to me."

Instead of being conciliatory, it is calculated to be as irritating as possible. It reflects the feelings of Frémont throughout. It breathes the purpose of subjugation, and was calculated to arouse whatever manhood there was in the country to the last degree of resistance.[1]

The movement toward effecting the conquest begins immediately. Colonel Frémont and Lieutenant Gillespie, with their battalion, are mustered into service, as the Commodore says, "under the law of necessity."[2]

They embark on board the *Cayene* at Monterey, for San Diego, on the 25th of July, 1846, and are there in three days.

Here no enemy was found, but there was an enforced delay of a week to get together horses enough to mount the men. On the 8th of August they were on the road to Los Angeles.

Meantime, Commodore Stockton had sailed from Monterey, for San Pedro, in the *Congress*, and on the way touched at Santa Bárbara, where he raised the Stars and Stripes and left a small garrison, and then proceeding to San Pedro, landed three hundred and sixty marines for the march of twenty-eight miles to Los Angeles.

[1] From Commodore Stockton's "Address": —

"General Castro, the commander-in-chief of the military forces of California, has violated every principle of international law and national hospitality by hunting and pursuing with several hundred soldiers, and with wicked intent, Captain Frémont, of the United States army, who came here to refresh his men, about forty in number, after a perilous journey across the mountains, on a scientific survey. For these repeated hostilities and outrages, military possession was ordered to be taken of Monterey and San Francisco until redress could be obtained from the government of Mexico," etc. — *H. H. Bancroft*, vol. 22, p. 254.

The reader can judge how much truth there is in such a proclamation.

[2] *Court-Martial*, p. 180.

Before the march from San Pedro to Los Angeles began, two commissioners from General Castro arrived, presenting a letter to the Commodore from the General, "asking explanations on the conduct that he proposes to follow; . . . and wishing to avoid all the disasters that follow a war like that which your lordship prepares, it has appeared convenient to send to your lordship a commission to know your wishes, under the conception that whatever conference may take place, it must be on the base that all hostile movements must be suspended by both forces."

Now, here is room, surely, for the trial of "conciliation."

Furthermore, General Castro, it seems, had reason to expect it. For, as Mr. H. H. Bancroft tells us, Mr. Larkin was on the *Congress*, and on arriving at San Pedro, dispatched letters to Abel Stearns, his associate United States confidential agent, though he was at the same time a Mexican sub-prefect.

In them, Mr. Larkin urges Mr. Stearns immediately to consult with Governor Pico and General Castro, and put before them in as strong a light as possible the importance of declaring independence of Mexico and puting California under the American flag. They were urged to come to a conference at once, as the Commodore with his forces would march in twenty-four hours.

It is evident that the commissioners appeared so promptly, in response to these urgent suggestions, expecting to be welcomed to a conference.

But on the very reasonable conditions proposed, the proposition was declined, and as Commodore Stockton

says, "I announced my determination to advance, and the commissioners returned to their camp."

It is manifest enough that this conduct is not in accord with the spirit that prevailed in Washington, but that it was the same as that which captured General Vallejo at Sonoma a month before and shut him up in Sutter's Fort.

The march to Los Angeles was begun on August 11th, and the city was reached on the 13th. Frémont, with his battalion, joined them, and the combined force entered the city, raised the flag, but found no enemy.

The Californians had fled, and well they might flee. As was confessed by their leaders afterward, they could count only on one hundred men, "badly armed, worse supplied, discontented by reason of the misery they suffered, and the fear was that they would not fight if the necessity should arise." No wonder they fled, indeed, when an army of four hundred and eighty men, well armed and well supplied, was at their doors!

To Stockton and Frémont this seemed to complete the conquest of California.

At once Commodore Stockton assumes the title of "Governor of California," and proceeds to exercise authority accordingly.

He publishes another address to the people of the country, far more sensible and business-like than the first, and proceeds to organize a civil government. He announces his intention to appoint Colonel Frémont governor, garrison the principal towns with such land forces as he had at his disposal, withdraw his marines, and sail on sea duty.[1]

[1] "*Question.* What orders and instructions from the President of the

In the midst of this work, on the 17th of August the *Warren* arrived from Mazatlan, bringing the first positive news of the declaration of war, and also bringing Secretary Bancroft's dispatch to the Commodore, of May 13, 1846, saying, "The state of things alluded to in my letter of June 24, 1845, has occurred. You will therefore be governed by the instructions therein contained." But he added nothing suggesting or authorizing land operations, or the organizing of a civil government for the territory. This duty, as, of course, Secretary Bancroft knew, had been assigned to General Kearny, of the army, who was then well on his way to California.

And no word was sent to the naval commanders, looking toward inland operations, except this slight suggestion, contained in a dispatch dated August 17, 1846: "If opportunity offers, and the people favor, to take possession by an inland expedition of San Pedro and Pablo [*sic*] de los Angeles, near San Diego." This, however, was not received till long after Commodore Stockton had left.

But there was no delay on the part of Commodore Stockton in completing his plan of civil government and stationing such garrisons as the land force at his command would allow at Los Angeles, San Diego, Santa Bárbara, and Monterey, after which he sailed for San Francisco.

But before he sailed he prepared a dispatch to the

United States, or Secretary of the Navy, had you in California in regard to the establishment of a civil government in that country?

"*Answer.* Well, I do not think I had any. My right to establish a civil government was incident to the conquest, and I formed the government under the law of nations."—*Stockton's Testimony before the Court-Martial*, p. 198.

Secretary of the Navy, reciting the achievements of the last month. He says to him: "You have already been informed of my having, on the 23d of July, assumed the command of the United States forces on the west coast of Mexico.

"I now have the honor to inform you that the flag of the United States is flying from every commanding position in the territory of California, and that this rich and beautiful country belongs to the United States, and is ever free from Mexican dominion.

"Thus in less than a month after I assumed command, . . . we have chased the Mexican army more than three hundred miles along the coast, pursued them thirty miles in the interior of their country, routed and dispersed them, and secured the territory to the United States, ended the war, restored peace and harmony among the people, and put a civil government into successful operation."

This dispatch, with others from Colonel Frémont, was sent by Christopher Carson, to be delivered in Washington in the shortest possible space of time.

Carson started on the 28th of August, going by the Santa Fé route. On his way, as has been before mentioned, on the 6th of October he meets General Kearny with his three hundred dragoons on their march to California.

When he learned Carson's errand and the achievements he was to report at Washington, thinking his force unnecessarily large, he turns back two thirds of it to serve elsewhere in the war, and with only one hundred men pursues his way to California. But as he drew near California he became aware in various

ways that all was not peace in the country. And by and by he learned that after Mr. Carson left in August with the dispatches, a revolution broke out throughout the country, the garrisons were captured, and the United States flag was hauled down!

Then, as he entered the territory with his party, weary and way-worn, came the San Pasqual affair, and then the meeting with Commodore Stockton at San Diego on December 12, 1846.

The Commodore is there in the *Congress*, preparing to land his marines and march for the re-conquest of Los Angeles.

CHAPTER VII.

Kearny and Stockton — Conflict of Authority — March to Los Angeles from the South — Coming down of Frémont from the North — Los Angeles taken — The "Couenga Capitulation" — Commodore Stockton Appoints Colonel Frémont Governor and Retires to his Ship — General Kearny Assumes the Office of Governor under his Orders from Washington — Frémont Refuses to Recognize his Authority — Commodore Shubrick Arrives, February, 1847 — Relieves Commodore Stockton — The Government set up by Stockton and Frémont Ignored — Shubrick takes Command at Sea and Kearny on Land — The "Government Plan" is Restored.

HERE begins a conflict of authority. General Kearny comes in obedience to the orders of the government, of June 3, 1846. Commodore Stockton is acting only under orders to take possession of the ports, but nothing was said in them about conquering the country or setting up a civil government.

The intention of the government in the matter is very plain. For no sooner had they learned of the beginning of Commodore Stockton's movements than the Secretary of the Navy wrote him as follows, under date November 5, 1846, which letter was on the way at the time the two officers met in San Diego:—

"The President has deemed it best for the public interests to invest the military officer commanding with the direction of the operations on land and with the administrative functions of government over the people and territory occupied by us.

"You will relinquish to Colonel Mason, or to General Kearny, if the latter shall arrive before you have done so, the entire control over these matters, and

turn over to him all papers necessary to the performance of his duties."

If the Commodore could have received this order at this time, it would have settled the matter, and would have put into full operation the original plan of the government, placing General Kearny in entire control of all operations on land.

But, unfortunately, it must be months before the order can reach him, and, meantime, he proceeds to carry out his own plan as "Governor of California," claiming a rank and authority superior to that of General Kearny.

It is not necessary to my purpose to go into detail here, and narrate the particulars of the re-conquest of California which had now to be undertaken.

Suffice it to say that the joint forces of Stockton's marines and General Kearny's dragoons prepared to march northward from San Diego to Los Angeles, and at the same time Colonel Frémont with his mounted rifles was coming down upon the city from the north. Commodore Stockton and General Kearny arrived first, and, overcoming a pretty sharp opposition, entered the city on the 10th of January, 1847, and raised again the United States flag, which had been hauled down four months before.

On the same day, Colonel Frémont and his men reached San Fernando, and there met the retreating Californians, who had given up all idea of further resistance to American authority.

A capitulation was proposed, and entered into by Colonel Frémont with the Californians without waiting to consult with Stockton or Kearny, and the war

was over. This took place on January 13, 1847, and Frémont, with his battalion, reached Los Angeles on the 14th.

Commodore Stockton was not altogether pleased with Colonel Frémont's action in this matter, but he said, in his report of the affair, "I have thought it best to approve it."

Now comes another conflict of authority, between General Kearny and Colonel Frémont. Commodore Stockton had promised Colonel Frémont that when he had completed the organization of the civil government he would appoint him governor, and himself leave to resume his duties at sea. But Colonel Frémont is still in command of his four hundred riflemen, under commission from Commodore Stockton.

General Kearny, however, considers Frémont and his men under *his* command, according to the orders of the Secretary of War, dated June 18, 1846, saying, "These troops, and such as may be organized in California, will be under your command."

He accordingly sends to Colonel Frémont an order dated Los Angeles, January 16, 1847, directing that "no change be made in the organization of your battalion of volunteers, or officers appointed in it, without my sanction and approval being first obtained."

Colonel Frémont replies to this on January 17th: "I shall have to report and receive orders, as heretofore, from the Commodore."

Colonel Frémont receives his commission as governor from Commodore Stockton on January 16, 1847, and on the 22d issued a proclamation announcing the establishment of a civil government.

General Kearny with great prudence refrained from precipitate action, having only a very small military force at his command as yet. He marches to San Diego, and sails for Monterey, which place he reaches on February 8, 1847, where he finds Commodore Shubrick, of the ship *Independence*, who came to succeed Commodore Stockton in command of the Pacific squadron.

This removes Stockton from the scene of action, but it leaves Frémont governor, with whatever authority the appointment could give him. It is easy to see now that if General Kearny had proceeded to deal summarily with him at that time for disobedience of orders, while his four hundred riflemen were around him, it might have resulted in very serious trouble. But he was a commander too wise and experienced for that.

We have here reached a very important point in the current of California affairs.

We now come again upon the "government plan," which was thwarted by Colonel Frémont and Commodore Stockton, and find it restored by General Kearny and Commodore Shubrick.

On March 1, 1847, they publish a joint notice, in accordance with directions from the government at Washington, explanatory of the duties of each.

The government set up by Stockton and Frémont is entirely ignored, and a new one is established.[1]

[1] "The President of the United States . . . has invested the undersigned [Shubrick and Kearny] with separate and distinct powers, civil and military, a cordial co-operation in the exercise of which, it is hoped and believed, will have the happy results desired." — *Bancroft*, vol. 22, p. 437.

On the same day General Kearny issues his proclamation as governor of California. In it he almost suggests an apology for the imprisonment of Vallejo and others, and the conduct of the settlers, when he says, "There was not time, when Mexico forced war upon the United States, for the latter to invite the Californians as friends to join her standard, but compelled her to take possession of the country to prevent any European power from seizing upon it, and in doing so, some excesses and unauthorized acts were no doubt committed by persons employed in the service of the United States, by which a few of the inhabitants have met with a loss of property. Such losses will be duly investigated, and those entitled to remuneration will receive it."

Here is the beginning of something stable and permanent in California civil affairs.

CHAPTER VIII.

General Kearny's Reinforcements Coming in — The *Lexington* — "Stevenson's Regiment" — The Mormon Battalion, etc. — Civil Government — Rev. Walter Colton's Acaldeship — General Kearny Leaves, May 31, 1847, and Col. R. B. Mason takes his Place — He had to Assist Him, Lieut. W. T. Sherman and Lieut. H. W. Halleck — San Francisco has Fifty Houses, 1847 — Dissatisfaction with "Acalde Government" — January 24, 1848, Gold Discovery! — Business Revolutionized — Governor Mason Perplexed — He Visits the Mines with Lieutenant Sherman in the Early Fall.

WHEN General Kearny issued his proclamation as governor on March 1, 1847,[1] his reinforcements which had been sent by way of Cape Horn were coming in. The transport ship *Lexington* had already arrived with an artillery company, one hundred and forty men, with heavy guns, arms, shovels, spades, plows, saws, a saw-mill and grist-mill, and tools of various kinds.

[1] From General Kearny's proclamation: —

"The President of the United States having instructed the undersigned to take charge of the civil government of California, he enters upon his duties with an ardent desire to promote, as far as possible, the interests of the country and the welfare of its inhabitants.

"He has instructions from the President to respect and protect the religious institutions of California, and to see that the religious rights of the people are in the amplest manner preserved to them, the constitution of the United States allowing every man to worship his Creator in such a manner as his own conscience may dictate to him.

. . . . . .

"It is the wish and design of the United States to provide for California, with the least possible delay, a free government, similar to those in her other territories; and the people will soon be called upon to exercise their rights as freemen in electing their own representatives to make such laws as may be deemed best for their interests and welfare.

"But until this can be done, the laws now in force, and not in conflict with the constitution of the United States, will be continued until changed by competent authority, and those persons who hold office will continue in the same for the present, provided they swear to support that constitution and to faithfully perform their duty."

On this ship came Lieut. H. W. Halleck, of the United States topographical engineers, to superintend the fortifying of Monterey and San Francisco.

In February, Col. R. B. Mason arrived, coming by way of the Isthmus of Panamá, to relieve General Kearny, and allow him to return home.

In March came the transport ships, bringing Stevenson's Regiment, numbering eight hundred men, which, with the Mormon Battalion and the mounted riflemen, amounted to an ample military force for the maintenance of the government.

These riflemen were soon disbanded and were allowed to return north to their homes, but the other troops were stationed in the principal towns, in sufficient force to secure them and the entire country against uprisings or attempts at questioning the permanence of the conquest.

The next thing immediately necessary was the detailing of a sufficient military force to protect the country from the incursions of Indians.

There were loud complaints of them, coming in from the Sacramento Valley, and even from San José, and from Los Angeles and San Diego.

There had never before been a force in California available to hold them in check, and even now it took some years to suppress them and give security to the industry of the country.

When peace was thus secured, General Kearny turned his attention to the administration of civil affairs.

The war with Mexico was then at its height, and the government was that of military occupation, awaiting its final issue.

Meanwhile the supremacy of the authority of the United States must be maintained, and yet the legal relations of the citizens with each other were to be as little disturbed as possible.

In accordance with the accepted maxim that "the conqueror has a right to give laws to the conquered, but until some law is given by the conqueror, the laws of the conquered country are in force," Rev. Walter Colton, chaplain of the United States ship-of-war *Congress*, had been made alcalde at Monterey, by Commodore Stockton, on July 30, 1846.[1]

After some two months, the term for which Colton was appointed, was about to expire, an election was ordered, and he was retained in office by popular vote.

General Kearny found him in the discharge of his duties. These duties were peculiar, and were determined more by tradition than by written law.[2]

As this alcalde system remains in force for a considerable time after the close of the war, it becomes necessary to describe it somewhat particularly.

And probably no description could give a better idea of it than that of Alcalde Colton himself, in which he details his duties and responsibilities at the time. He says: "My duties are similar to those of mayor of one of our cities, without any of those judi-

[1] Colton, with Robert Semple, find some old type in Monterey, and manage to print the first newspaper in California, on August 15, 1846, entitled *The Californian*.

[2] "There is no written law in the country. There is a small pamphlet defining the powers of the various judicial officers, emanating from the Mexican government since the revolution.

"But a late Mexican governor of California gave this instruction to a new inquiring magistrate: 'Administer it in accordance with the principles of natural justice.'" — W. H. Davis, in *Sixty Years in California*.

cial aids which he enjoys. It involves every breach of the peace, every case of crime, every business obligation, and every disputed land title within a space of three hundred miles.

"From every other alcalde's court in this jurisdiction there is an appeal to this, and none from this to any higher tribunal. Such an absolute disposal of questions affecting property and personal liberty never ought to be confided to one man."[1]

All alcaldes did not have jurisdiction over so large a territory as Alcalde Colton, but their type of authority was the same.

It was well enough in the southern part of the country, among the Spanish-speaking people, where it had existed for generations, but it was by no means welcomed in the north, by the immigrants recently in from the "States."

They could only endure it for the time being, in the hope that the war would soon end, and a system of law come into force with which they were familiar.

To a certain extent, alcaldes were held to be accountable to the governor, and when he thought proper, their acts were called in question by him.

General Kearny was occupied in putting in order the civil and military affairs of California for the space of three months, when, on May 31, 1847,[2] he started on his return across the continent to the

[1] *Colton's Three Years in California.*

[2] With General Kearny, at this time, went Colonel Frémont, under arrest for disobedience of orders; and as a result of his trial by court-martial, he lost his commission in the army.

A little later in 1847, Commodore Stockton went East, overland, and in May, 1850, resigned from the navy. — *Appleton's Cyclopædia.*

United States, and, under orders from Washington, Colonel Mason took his place.

Speaking of General Kearny and his short administration, Alcalde Colton says: "During his brief sojourn in California, his considerate disposition, his amiable deportment, and generous policy endeared him to the citizens. They saw in him nothing of the ruthless invader, but an intelligent, humane general largely endowed with a spirit of forbearance and fraternal regard." [1]

It was exceedingly fortunate that Colonel Mason, his successor, was a man of like character.

The situation required a firm hand at the helm.

The storm of war had passed, but the ground-swell of public excitement was still threatening.

It is seen in his report to the adjutant-general at Washington, in which he says, "When you remember the extent of the coast and frontier; the great numbers of Indians upon the immediate border, who know that a change of government has been effected in this country, and are watching its effects upon the character of the people, as to whether it is better for them to live on as thieves and robbers or as friendly tribes,— you can readily appreciate my anxiety in contemplation of what may happen.

"There are other dangers in this country I must point out. The number of natives and foreigners in the country are nearly balanced, and of course a strong jealousy exists between them, not only on the

[1] "Shubrick and Kearny were cordial; neither of them had in view any other object than the fulfillment of his instructions." — *Hittell*, vol. 2, p. 457.

score of which government shall prevail, but as to ideas of personal liberty, property, and all the every-day dealings of life. There are subordinate jealousies, too, between the foreigners of different nations, the old settlers and the new; and, indeed, when you remember that a great part of these foreigners are deserters from ships, and men who have been accustomed to lead a lawless life, you can see what confusion would result from the withdrawal of strong authority well backed by force."[1]

And not only was Governor Mason the right kind of man for the place, but he was exceedingly fortunate in the men he called to assist him.

There was Lieutenant William T. Sherman, then of the United States artillery, a young officer already showing himself a man of resources and superior ability.

Then there was Lieutenant Henry W. Halleck, of the topographical engineers.

Governor Mason appointed him secretary of the territory on August 13, 1847, and thus secured the services of a man singularly fitted for the position.

He was not only a distinguished member of his corps, but a trained lawyer as well, and a man versed in modern languages, especially the Spanish.

He was a man of calm, judicial mind, fitted to handle questions of public law, which he had made a study.

And it was well for the country that he possessed just these traits of character and these qualifications, for it afterward appeared how vital they were to its welfare.

[1] *Bancroft*, vol. 22, p. 584.

Lieutenant Halleck and a brother officer lived together in a log house a little distance from Colton Hall, and took their meals wherever they could find them, for there was not a public table or hotel in Monterey.

Governor Mason occupied a house downtown, not far from the custom-house, and the government offices were in the Cuartel, a long building situated in the part of the town toward the church.

Here the expresses came in, — on horseback, of course, for there was no other means of conveyance, and from here they went out to the alcaldes and military officers in the north and in the south, while the military at the fort on the hill overlooking the harbor was held in reserve for emergencies.

At the same time, Alcalde Colton held his daily court, and dispensed justice as he thought was right, and there is no record that Governor Mason ever called in question any of his decisions.[1] This could not be said of other alcaldes, for he frequently overruled their decisions, and sometimes removed them from office.

Mr. Colton was a man of delicate build, refined in taste and manner, educated at Yale College, trained to a literary life, a clergyman by profession, and from the position of chaplain on the *Congress* was assigned to this duty on shore.

He was a keen observer of men. Those penetrating eyes of his read character quickly. He was a man of

[1] "Governor Mason distinctly held the alcaldes not to be authorities of the United States, but merely authorities of the military government of California, and subject to removal by the military governor." — *Hittell*, vol. 2, p. 658.

ready wit and playful humor, but firm and inflexible in his judgments.

Nobody could trifle with him. Early in his administration he gained the confidence of the people for honesty and truth, so that when it came to a popular election he was chosen by a large majority.

He first introduced trial by jury in California. It was on September 4, 1846. He was the terror of gamblers and horse-thieves. Drunkards and vagrants, on whom he imposed fines, he put to work if they could not pay, and generally they could not.[1]

With this labor, and the fines that were collected, he built "Colton Hall," a large stone structure which has since become historic.

Any New Englander who prepared for college fifty years ago would see that the building was intended as an academy, with its two large rooms on the first floor, and one large hall occupying the entire space above.

The people of Monterey did not know that he modeled it after the academy, probably the one where he

[1] *Colton's Three Years in California*, p. 188: —

"In the mean time I shall set the prisoners quarrying stone for a schoolhouse, and have already laid the foundations.

"The labor of the convicts, the taxes on rum, and the banks of the gamblers must put it up. Some think my project impracticable. We shall see."

Page 356: —

"March 8. The town hall, on which I have been at work for more than a year, is at last finished. It is built of a white stone, quarried from a neighboring hill, and which easily takes the shape you desire. The lower apartments are for schools, the hall over them — seventy feet by thirty — is for public assemblies. The front is ornamented with a portico, which you enter from the hall. It is not an edifice that would attract any attention among public buildings in the United States, but in California it is without a rival."

himself began his education, but he believed that in time their children would put it to just that use, though now they did not know what an academy was.

At any rate, it would be a permanent public building, suitable for many uses, erected by means of fines and labor that would otherwise subserve no public purpose.

Mr. Colton's prolonged administration in the important jurisdiction of Monterey, preserving peace and administering justice,[1] was a very important auxiliary to the administration of Governor Mason. He was popular in the best social circles in the town, a man of blameless life, against whom, when he left his responsible and difficult office, no one was found to speak ill.

With such men to aid him in his delicate work, Governor Mason went on in the discharge of his duty, while the war in Mexico was drawing to a close.

The summer and the fall of the year 1847 passed in California, unmarked by any events of special importance.

Population was slowly increasing, and the town of San Francisco was showing signs of growth.

There were some fifty houses in the place, and a

1 Walter Colton was born in Georgia, Franklin County, Vermont, in 1797. He spent his boyhood in Hartford, Connecticut, and there fitted for college. He graduated from Yale College in 1822, and from Andover Theological Seminary in 1825. He was appointed chaplain in the United States navy by General Jackson in 1829, and when at sea wrote several books. He was chaplain on the *Congress* (Commodore Stockton) when she arrived at Monterey in July, 1846. He was appointed alcalde there, serving three years, till 1849. He went East, and was stationed at Philadelphia navy-yard, and wrote *Three Years in California*. He died in Philadelphia, January 22, 1851.

census showed a population of four hundred and fifty-nine persons.[1]

Among the citizens there were men of intelligence and ability. They elected a "town council" to help the alcalde, and they had a newspaper, and were talking about a school and a church, and were surveying streets and selling lots.

They were not afraid to invest in real estate, for nobody had any idea that the war would close without leaving California a territory of the United States.

American enterprise began to appear, also, in the northern valleys. The farmers who left their homes a year before, and joined the company of "mounted rifles," to take part in the conquest of the country, had now returned, and the rising business which began to be apparent showed their presence.

But they soon manifested discontent with the existing system of government.

The "alcalde" method did not suit them. Men of courage and enterprise enough to form emigration companies the other side of the Mississippi, and govern themselves in a five-months' journey overland to California, were not the men to long submit to any system of law, other than that which they made themselves.[1]

Evidence enough of this is seen thus early, in accounts of meetings in several places in the northern part of the country, published in the newspaper.

[1] *Hittell*, vol. 2, p. 688.

[2] "Of all men whom I ever met, the most firm, resolute, and indomitable are the immigrants into California. They feel that they have got into a new world, where they have a right to shape and settle things in their own way."—ALCALDE COLTON, in *Three Years in California*, p. 374.

They expect to tolerate existing conditions only so long as the war continues, and then become, through the action of Congress, a territory of the United States.

Meanwhile, they build themselves houses, such as they can, and fence their fields, and when the winter rain falls, put in their crops, and look forward to the coming spring. In anticipation of coming harvest, a grist-mill needs to be built.

But first a saw-mill must be put up, to cut the lumber, without which no progress could be made in any branch of business.

Captain Sutter, with others, undertakes the work. They find a suitable location for their purpose on the North Fork of the American River.

By the middle of January of the new year, 1848, the structure is up, and the mill nearly ready to run.

But it is found, on experiment, that the race leading the water from the wheel was not deep enough. So the flood-gates were opened, and the swift current of water was allowed to run all night, to deepen it. In the morning the current was shut off and the race was examined, and then and there, on January 24, 1848, was made the great discovery that attracted the attention of the whole civilized world to California.[1]

[1] "This was not really the first discovery of gold in California.

"In 1843 and 1844, the priests in the Missions San José and Santa Clara told W. H. Davis as a great secret, 'that some of their Indians had told them that they had found gold in the Sacramento Valley, and had showed them specimens, but that they had enjoined upon the Indians not to reveal the fact, for fear of the wrath of God, and that they had obeyed.'

"The motive of this was to prevent an incoming rush of gold-seekers. Protestants would swarm, and the Catholic religion would be endangered."—W. H. Davis, in *Sixty Years in California*, p. 233.

And it may be well to mention, at this point, that this discovery was made only *ten days* before California was ceded to the United States by treaty, in the city of Mexico, though the news of the transaction did not reach here till August following.

Had it been made much sooner, and before the occupation of the territory by the United States, it is hard to imagine the difference it would have made in the destiny of California.

The finding of gold in paying quantities in the loose earth was something altogether unprecedented, and those who picked up the nuggets from the mill-race that morning were themselves slow to believe that it was really gold!

And it was weeks, and even months, before the news of the discovery was sufficiently credited to affect business.

It was the 29th of May before the first rumor of it reached Monterey, and considerably later before it was sufficiently believed to induce people to drop business and take the long, hard journey to see for themselves.

But the news was so astounding that private letters were dispatched at once to various points in the East, by one express or another, some of which reached their destination late in September, 1848, and quickly appeared in some of the newspapers.[1]

But the truth of the statements which they contained was so improbable, that they were not believed

[1] Rev. Walter Colton made the earliest announcement of the great discovery to the *Journal of Commerce*, in New York, in a letter addressed to that paper.

till they were confirmed by a dispatch to the government from Governor Mason and Lieut. W. T. Sherman.

But when it was believed, it caused such an emigration as had never been known before, and it all centered in the gold-fields of California.

But here in California, before the end of the year 1848, it had revolutionized all business and all values, and threw all civil and domestic affairs into unheard-of confusion.

If the orderly mind of Governor Mason was sorely tried with the perplexities of his office before, it was ten times more so now.

The mustering out of volunteers had reduced his military force, and yet he is to be held responsible for maintaining order among a population far from reconciled to the authority of his country, and into which is suddenly to pour unknown numbers of youthful adventurers in a wild rush for gold.

At the same time he writes to the government: "Troops are needed here, greatly needed, but of what use is it to send them, with the positive certainty of their running off to the gold mines as soon as they arrive, taking with them whatever public property they can lay their hands on?"

But he holds on, and watches events. Where he finds subordinate officers honest, he trusts them. And even when the people themselves administer justice in cases of flagrant crime, he is only careful to be sure that the criminal has a fair trial. He finds it impossible to get on without laying aside technicalities.

Guided in this way, public affairs move on more smoothly than might have been anticipated.

In the mines, in the fall of 1848, the people were so busy and so successful that there hardly seemed to be temptation sufficient to lead to theft or violence, and the mining-camps were learning to be self-governing communities.

Governor Mason, visiting the mines about this time, says there is good behavior, that crimes are infrequent, that peace prevails, that there are no thefts or robberies, though all live in tents or bush houses, and often had about them thousands of dollars' worth of gold.

But the miners soon learned by experience the necessity of civil organization, and as crowds of men of various nationalities, some of them of bad character, outlaws, and desperadoes of the worst type, came in, honest and industrious men were obliged in self-defense to unite and hold them in wholesome fear.

But they had no legal right to elect any officer but the alcalde, from whom there could only be an appeal to Governor Mason.[1]

[1] *Shinn's Mining Camps:* —

"In July, 1849, there were fully fifteen thousand people in Sonora, from Sonora, Mexico, Chili, and the Isthmus, many of them armed in bands, some of them outlaws and desperadoes of the worst type.

"Over against them was a little camp of Americans, who elected their alcalde and organized themselves for self-protection. Suspicious characters, both Mexican and American, were notified to leave. Criminals were followed, captured, and punished. Camps south of Placerville were more turbulent than those north, but all needed law and justice." (P. 141.)

"There were times in almost every mining-camp when the rowdy element came near ruling, and only the powerful and hereditary organizing instincts of the Americans present brought order out of chaos.

"In nearly every crisis there were men of the right stamp at hand to say the brave word or do the brave act, — to appeal to Saxon love of fair play, or seize the murderer, or defy the mob." (P. 148.)

"Difficulties with foreigners were inevitable, and they served to weld the Americans into closer union; but foreigners were often treated most unjustly." (P. 213.)

Consequently, the governor found himself responsible for maintaining order in this great territory, the northern portion of which was in this anomalous condition, and the southern half held in no very willing subjection.

But he succeeded in doing it reasonably well, assisted as he was by his secretary of state and other able officers.

"Columbia was a typical mining-camp. On March 27, 1850, five prospectors, all New Englanders, camped beside a gulch and tested the gravel. To their delight, it was found they could make eight or ten ounces a day to the man.

"They proceeded to wash gravel with their utmost energy, knowing that others would soon find the gulch.

"Within thirteen days there were eight thousand miners in the new town.

"Many gamblers came with the crowd, and at one time there were not less than a hundred and forty-three monte and faro banks in operation, the funds of which were nearly half a million of dollars.

"Within a fortnight, the need of some system of government was manifest.

"A public meeting was called. Two or three days later, another. An alcalde was chosen and laws agreed upon." (P. 280.)

CHAPTER IX.

News Comes of Treaty of Peace with Mexico — Proclaimed August 7, 1848 — Territorial Government Expected from Congress — Prevented by the Slavery Discussion — Governor Mason Worried — Really no Law, and very little Force at Hand — Secretary Buchanan's Advice — General Disappointment in California — People Preparing to Frame a Government for Themselves — Conventions Held — February 23, 1849, the *California*, the First Steamship, Pacific Mail Line, Arrived at Monterey — General Bennett Riley Arrived in April and Relieved Governor Mason — Congress Adjourned, and Failed to Organize a Territorial Government.

EARLY in August, however, came the news of the ending of the war, and the ratification of the treaty of peace with Mexico, which meant the end of Mexican dominion in California, and the substitution of the sovereignty of the United States.

This event Governor Mason made known by proclamation on August 7, 1848.

But it raised new and very perplexing questions, when it seemed as if there were more of them than could be handled before.

The civil government existing under the law of nations while the country was a conquered province in our military occupation, was now at an end.

Recognizing this in his proclamation, he points to Congress as the only power able to establish a government, and says that there is every reason to believe that it has already passed the act, and that a civil government is now on its way to this country to replace that which has been organized under the rights of conquest. But the looked-for government was

waited for in vain. The question of the permission of slavery in this newly acquired territory divided Congress, and they could agree upon no legislation replacing the Mexican system.

And yet the President had said, in his message to Congress on July 6th, that "since the cession of California to the United States, the Mexican system has no longer any power, and since the law resulting from our military occupation has come to an end by the ratification of the treaty of peace, the country is without any organized government, and will be until Congress shall act."

And yet Congress could not agree upon any action.

Meanwhile Governor Mason feels keenly the increased perplexity of the situation. In view of probable confusions, if not absolute anarchy, he does not see any way clear for the maintenance of order. "What right or authority have I," he writes to the adjutant-general, "to exercise civil control in time of peace in a territory of the United States? Or, if sedition and rebellion should arise, where is my force to meet it? Two companies of regulars, every day diminishing by desertions that cannot be prevented, will soon be the only military force in California; and they will, of necessity, be compelled to remain in San Francisco and Monterey to guard the large depots of powder and munitions of war, which cannot be moved. Yet, unsustained by military force, or by any positive instructions, I feel compelled to exercise control over the alcaldes appointed, and to maintain order, if possible, in the country until a civil governor arrives, armed with instructions and laws to guide his foot-

steps. . . . In the mean time, however, should the people refuse to obey the existing authorities, or the merchants refuse to pay any duties, my force is inadequate to compel obedience."

It is quite easy now to read calmly Governor Mason's statement of this condition of things as he had then to face it, but it was far from easy for him to know how to meet it then.

Southern California was restless and sullen; the immigrant population from the Western states, in the north, would not endure the alcalde government; and the miners in the mountains would tolerate no government but what they extemporized for themselves.

Disorder and violence were liable to break out at one point or another at any hour, and if it did, there was no force to control it. Moreover, there was no authority to use force, if it had been at hand. Congress could not agree on a government to replace that which they had destroyed.

And yet this country was separated by the whole breadth of a continent from any source of relief, if trouble should arise. In time, it was a six-months' journey. All concerned realized the extreme delicacy of the situation.

Mr. Buchanan, Secretary of State, writes that though government under the war-power has ceased, and Mexico has no longer any authority, the termination of the war "left an existing government, a government *de facto*, in full operation; and this will continue, with the presumed consent of the people, until Congress shall provide for them a territorial government."

But Governor Mason knew that the "consent of the people" could not be depended on,—certainly not for any length of time,—and he did not see what course he could take in case of their refusal.

Already, in 1848, conventions were held in several towns to consider the question of establishing some government different from that of the alcalde system.

Among the newer citizens there were some trained in the law, and many who were familiar with the principles and administration of government, and who knew as well as the President or the Secretary of State the real situation of the country, as regarded law. And they had small patience with any "*de facto*" system of government derived from such a country as Mexico.

When they learned that Congress had adjourned without giving the country a territorial government, they were disappointed, and immediately began to talk about their right, under the circumstances, to form a government of their own.

And yet Governor Mason was firm in his support of the government as it was, relying on Congress to take the needed action at its next session the following winter.

Fortunately for him, the public mind was absorbed in the gold excitement, and could not stop to think much about anything else, and though some atrocious crimes were committed and justice was not very swift, there was no general disorder or organized movement for superseding the existing government by one organized by the citizens themselves.

And so the winter of 1848–49 went by. It was a

very rainy winter. The earth became saturated with water, and traveling on horseback, which was the only mode of travel, was very difficult. Consequently, consultations looking toward the framing of a government here were delayed, and appointments were put off to a later date. But they were not given up.

One morning, late in February, 1849, a steamship made her appearance in Monterey harbor,—the *California*,—the first ever seen on this coast.

She was the first of the Pacific Mail line, and came direct from Panamá, crowded with passengers, mostly bound to the mines, and brought home news up to about the middle of January.

But in it there was no solution of the problem of government, though Congress was in session, and a new President (General Taylor) was about to be inaugurated. All were disposed now to wait and see what might come to California's advantage from the change of administration.

The steamship passengers were enthusiastically welcomed by the citizens of Monterey; but their main question was, how to get soonest to the mines. In a few days the steamship took them to San Francisco, and from thence they hastened on by such means as best they could.

But some of us, among whom was the writer, remained in Monterey and learned more or less about the difficulties of the governmental situation. They were all news to us. It was only gradually that we came to comprehend them.

We found Governor Mason a large, fine-looking man, every inch a soldier, and yet a gentleman in all

his bearing. He was not fretted by lack of conveniences, if they could not be had. He invited me to dinner, with Rev. Walter Colton, one day soon after our arrival, and he presided with perfect grace, though only an oilcloth covered the table, and the dinner consisted of but one course, and that was a single rib of beef roasted, with stewed frijoles, and bread, followed by coffee.

It was the best the town afforded, and he was glad to get an Indian to cook it, for he told us that the cook he had the day before ran away in the night, and he had that morning to get his own breakfast and make his coffee. But he did not seem to be particularly annoyed by what could not be helped, and by inconveniences which were common at the time.

A single artillery company occupied the fort on the hill, under the command of Captain Burton, and Captain Halleck was a diligent worker as secretary of state at the government headquarters.

It was the confident expectation of those who knew most about the prospect of Congressional legislation for California that, under the urgent recommendation of the President, some way would be found in the emergency, and a territorial government would be framed for the country.

Though no news of definite action was brought by the steamship, it was remembered that at the date of her latest dispatches, Congress had not been long in session, and at the same time attention was absorbed by the details relating to the change of administration and the inauguration of the new President. At the same time, the second steamship was soon to be

due, and she would very likely bring news of the expected action of Congress.

So the spring advanced, the whole country was dressed in flowers, and traveling became practicable.

Some time in the night of the last day of March, 1849, the loud report of a gun was heard in the harbor, and in the morning it was found that the steamship *Oregon* had been in, and left her mail, and had gone on to San Francisco.

With intense interest the government officials opened their dispatches and read the papers that morning, expecting to find news of the organization, by Congress, of the territory of California.

But they did not find it. To be sure, Congress was, at last accounts, within a very few days of its end, which must take place on the 4th of March, but parties were determined, and it could not be told what would be the result.

It was a time of keen anxiety, for as the spring advanced, the restlessness with existing government conditions was sure to increase, and the liability to disorder among the incoming multitudes would certainly be very great.

When the next mail would arrive, no one could tell. If the steamship *Panama*, the third of the mail line, got around Cape Horn on time, and made her trip up according to the schedule, she would not be due here before May, and might not bring the latest news then.

Under the stress of the circumstances, it was hard to think of waiting in uncertainty.

There was one way by which news of the closing action of Congress might be obtained earlier, and with certainty, and that was by sending to Mazatlan.

So the United States propeller *Edith* was dispatched at once to that port to get the latest news. Meanwhile a very important event took place. On the 12th of April, General Bennett Riley arrived, from around Cape Horn, in a transport ship, accompanied, a few days later, by two other ships, bringing a regiment of soldiers.

General Riley came under appointment of President Polk, to relieve Colonel Mason at his own request, and become governor in his place.

This office he assumed the day after his arrival, on the 13th of April, and at once Colonel Mason prepared to go East on the first opportunity.[1]

Governor Riley at once reappointed Captain Halleck secretary of state, and sat down with him to make himself acquainted with the political situation of the country.

General Riley was a man of ripe experience, a soldier from his youth, large of stature and of commanding appearance, possessed of good judgment, strong common sense, and firmness of purpose.

He knew how to appropriate to himself the knowledge and experience of others, and then exercise upon the widest information obtainable a sound judgment.

He was well qualified to take up the delicate work

[1] General Sherman, in his *Memoirs*, says of Colonel Mason: "While stern and honest to a fault, he was the very embodiment of the principle of fidelity to the interests of the general government.

"He possessed a strong native intellect, and far more knowledge of the principles of civil government and law than he got credit for.

"Knowing him intimately, I am certain that he is entitled to all praise for having so controlled the affairs of the country, that when his successor arrived, all things were so disposed that a civil form of government was a matter of easy adjustment." — *Sherman's Memoirs*, p. 64.

Colonel Mason left California on the steamer of May 1, 1849. He died at St. Louis, of cholera, but a few months later.

of piloting this remote and restless territory out of its chaotic condition into a regularly organized American state. It did not take him long to comprehend the situation. He saw at once that the practice of the traditional system of Mexican law must come to an end.

And he saw that if it did not come to an end through the action of Congress in organizing a territory, the citizens of the country themselves would be obliged, as a measure of self-protection, to bring it to an end by their own action. He learned, moreover, that they were well aware of this.

He was told that on the 11th of the preceding December a public meeting was held in San José to discuss the subject of organizing a government, and it resulted in the recommendation that a constitutional convention be called to meet in January, 1849. But under the conditions of travel that winter, it could not be brought about so soon.

A little later in the same December, very large meetings were held in San Francisco, which passed resolutions in favor of calling a constitutional convention to be held in San José in the following March. Other meetings of a similar character were held in Sonoma, Sacramento, and elsewhere, and the actual calling of the proposed convention was only delayed by the difficulty of agreeing upon a time for holding it, and getting notice so distributed as to secure attendance of delegates from all parts of the country.

The fact was, that there was a general determination on the part of the people to frame a government for themselves, if Congress failed to frame one for them.

It was spontaneous and decided, and now that the

conditions of travel were favorable, concerted action only awaited the final news from Congress.

Governor Riley was informed of all this in detail by his secretary, Captain Halleck, and other well-informed persons, and it did not take him long to resolve, in case Congress should fail to give California the needed government, that he would take the initiative, and, in accord with the general desire, call a constitutional convention that might assemble and act in a substantially legal way.

To this end, in order that there might be no delay when news from Washington should come, a proclamation was very carefully prepared beforehand, calling a convention to form a constitution, to meet in Monterey on the first day of the following September.

It was necessarily long, specifying the qualifications of voters for delegates, and giving all the directions for their orderly election, and at the same time calling for the election of officers to fill all vacancies in the existing Mexican system, to hold office until the new system could be organized and be ready to go into operation.

And so, in Monterey, the summer days went by in silence and expectation, till, on the 28th of May, the steamer *Edith* appeared on her return from Mazatlan.

She brought papers from the United States that settled the question. The session of Congress had closed, and no government whatever had been provided for California. The revenue laws had been extended over it, and laws were enacted for the establishment of mails and post-offices in the territory. That was all.

There was then no delay in proceeding to put into execution here the plan as already agreed upon.

CHAPTER X.

Convention Called by Governor Riley to Form a State Constitution, June 3, 1849—Election of Delegates, August 1st—T. Butler King Arrived, Confidential Agent from President Taylor—The Convention Met in "Colton Hall," Monterey, September 1, 1849—Analysis of its Membership.

FIVE days only after the arrival of the news by the *Edith*, the proclamation calling the constitutional convention was sent out by expresses, and posted up in all the usual places for public notices. This was on June 3, 1849. It was a measure deemed to be right by the governor and his advisers, and was manifestly in accord with the demand of all the people who had taken enough interest in the matter to express themselves upon it.

But these, it must be remembered, were by no means all who would now be called upon to pass upon it. There was the native Spanish population, occupying almost exclusively the southern half of the territory, who were not then taking very kindly to their transfer to the United States, and who, as yet, were but little acquainted with the details of responsible American citizenship.

It was very uncertain whether they would welcome a change in the legal system which was traditional with them, and take part in bringing in a new one, to be administered in a language foreign to them, upsetting all their familiar associations and usages.

It was doubtful whether they would take pains enough to study the proclamation sufficiently to con-

form to its directions in the election of delegates. And then it would remain a question whether the delegates, if properly elected, would take pains to make the journey to Monterey and act, as they would be obliged to, through an interpreter.

At the same time, it was exceedingly uncertain whether the nomadic camps in the mines would stop to read the proclamation, and find the boundaries of their voting districts, and elect delegates that would be anywhere within call on the 1st of September, and be willing to drop their mining tools, and make a long and fatiguing journey to Monterey, and spend the necessary time to frame a state constitution.

Furthermore, in San Francisco and in some other places there was a stout unwillingness to acknowledge General Riley's authority to act as civil governor or to call a convention to form a state constitution.

At first it was resolved, in a public assembly of the citizens, not to respond to the call of the proclamation, or send delegates to the proposed convention, because it would seem to be yielding to "military authority" in civil affairs. And it was only when, on reflection, it was seen that in this way there would be a better prospect of getting a convention together at all, than in any other way, that they yielded, and took the necessary measures to elect delegates.

These are only a part of the elements of the uncertainty that rendered the result of the effort in behalf of a state government very doubtful at that time.

Very little help could be had from the press in making known the facts and influencing public opinion, for there were but one or two small weekly papers, and their circulation was limited.

To travel over these great spaces and enlighten the public and prepare them for intelligent action was at that time something exceedingly laborious and expensive, for there were no stages on the land or steamboats on the water. Still, by one means or another, the leading facts of the situation became generally known, especially to the American population.

By the proclamation, August 1st was appointed as the day for the election of delegates to the proposed convention.

About the 1st of July, Governor Riley, with his staff, visited the mines. He wanted to make himself acquainted with the people, and learn personally the peculiarities of their situation, taking occasion to answer questions that might be asked concerning the contemplated measures looking toward a state government.

His journey was long and fatiguing, but it served an excellent purpose in doing away with prejudice, which many entertained against his administration as a military officer, and removing objections to the measures that he proposed.

All these movements toward a better system of government here originated with the people, and were seconded by the governor.

This should be particularly noted and remembered, in order that what follows later may be rightly understood.

It should be also remembered that whatever instructions General Riley received in Washington he received from President Polk and his administration. For he received his instructions in October, 1848, and sailed

for California, in the transport ship *Iowa*, on the 7th of November, the day after the Presidential election which resulted in the choice of Zachary Taylor.

Therefore, whatever readiness General Riley showed to favor immediate action toward the organization of a state government by the people, in the absence of any action by Congress, must have been in accord with the wishes of President Polk and his Cabinet.

And when, in March, 1849, the new administration came into office, and sent Congressman T. Butler King as its confidential agent to California, he only repeated the wish of the preceding administration when he urged prompt action here on the ground in organizing a government, inasmuch as Congress had not been able to agree upon one.

So that it was well known that the new administration would favor any wise action calculated to give the good government the country so much needed.

Therefore, notwithstanding the many doubts and uncertainties in the way, those people here in California who had come to take a real interest in the country determined to coincide with Governor Riley's plan.

The election of delegates to a constitutional convention according to the governor's proclamation was a success in all parts of the country.[1]

It took place on August 1st, and the returns came in as soon as they could be looked for under the conditions of travel at that time.

[1] "In the election of delegates, no questions were asked about a candidate's politics; the object was to find competent men. (*T. Butler King's Report.*)"—*Bancroft*, vol. 6, p. 282.

The interest manifested in this election greatly increased confidence in the success of the undertaking, although there remained great uncertainty as to the assembling of the delegates from such long distances at the appointed time.

September was a harvest month in the mines, and not many miners would think they could afford to give it to the political interest of a country in which, perhaps, they had no idea of remaining longer than temporarily.

And then the Spanish-speaking delegates at the south knew but little about the work of state-building. And as a conquered people they could not be expected to be especially zealous in joining with their conquerors in framing a new government in an unknown language.

So the month of August was passed in a good deal of anxiety.

The days in Monterey were very quiet. Very few men were to be seen about town, for they were away in the mines.

There were some soldiers at the fort, who did not run away, and a number of officers, of various military rank, who were on duty at army headquarters, but in those long summer days there was nothing to indicate the magnitude of the questions that were about coming to a settlement there. The stir and the excitement of the time was at the north. In Monterey the governor and his secretary received their express dispatches, and awaited the time of the assembling of the convention, on which they well knew so much depended.

As it came near September, the school that had been taught in Colton Hall since March was suspended, and carpenters were set to work to prepare the large hall in the second story for the sessions of the convention.

This was soon done, and though in a very simple and inexpensive way, the room was so well adapted to the purpose that it furnished every convenience required for the occasion.

If Alcalde Colton had known this important use that awaited his fine stone building, he could hardly have constructed it so as better to subserve its purpose.

The question of the entertainment of delegates for a month or six weeks had to be left to solve itself. Monterey, a town of twelve or fifteen hundred inhabitants, had no hotels.

Families lived in their own homes, and counted themselves fortunate if they could each keep an Indian boy or girl or two to cook and do the indispensable housework.

None of them felt called on, in the absence of the man of the house, to entertain stranger men, especially those of whose language they could neither speak nor understand a word, and of the importance of whose business there they knew nothing.

Only one single home in the town — that of Thomas O. Larkin — was in a situation to extend hospitality, and even that must be limited, because his wife was an invalid.[1]

[1] It ought to be said, in this connection, that some of the officers belonging to General Riley's staff entertained quite a number of delegates, though their quarters were hardly equal to the wants of their own families, and no reliable household service could be obtained.

But, in anticipation of the coming company, one hotel was extemporized, and a number of restaurants; and inasmuch as the delegates must of necessity sleep in their blankets on the way, they would be at hand for use there, and some place would be found where the owners could spread them. Some might prefer the open air and the warm, dry earth under the pine trees, to any house-accommodation whatever.

The dozen delegates from southern California would have no difficulty in finding entertainment, for they had friends and relatives in Monterey, who would claim them as guests, turning out to pasture the bands of horses on which they would come, and having them ready for their return.

But the time of uncertainty as to the assembling of the convention was near its end.

What had been learned through correspondence encouraged the hope that the delegates chosen would come together according to the call.

At last Saturday, the 1st of September, came,[1] but at noon only ten delegates appeared. They brought news, however, that many more were known to be on the way, and so those present, after organizing, a quorum not being present, adjourned to meet again on Monday, September 3d, at 12 M.

On Monday, at the appointed hour, the convention came together, and found a quorum present and ready to proceed to business.

But recognizing the need of more than human wis-

[1] As I write these words, I am reminded that it is just fifty years today — September 1, 1899 — since the constitutional convention began its sessions in Monterey.

dom in the work of founding a state under the unprecedented conditions of the country at that time, the present writer, who was there as a spectator, was asked to open the session with prayer. Subsequently, it was resolved that the sessions of the convention be opened every morning with prayer, and that the resident clergyman, Padre Ramirez, and myself officiate alternately.

It is not my purpose to narrate the proceedings of the convention, only so far as they relate to matters likely to facilitate or to hinder the admission of California by Congress as a state of the Union. On all other questions there was reason to expect substantial agreement, but about these there was the greatest uncertainty.

This will become plain when we study the composition of the convention.

It consisted of forty-eight men. They were principally young men. More than half of them were between thirty and forty years of age. Of the rest, one half were over forty, and the other half under thirty.

Eight were native Californians, using the Spanish language, who said but little, but by means of an interpreter watched carefully the proceedings, and generally voted together, and on the side of the majority.

As to the bias of the other members, it may be inferred from the fact that twenty-three were natives of free states and fourteen of slave states, and that twenty had come here from free states and seventeen from slave states.

They, most of them, met for the first time at this convention, knowing nothing of each other's antece-

dents, occupations, politics, or religion. There was no time after their election as delegates in August for them to meet or confer together, or form cliques or combinations, before assembling on the 1st of September, if any of them had been so disposed.

All of them were men of average intelligence. Fourteen of them were lawyers, and two or three had had some experience in the business of legislation.

There were very few books of reference within their reach, but there had been procured for them copies of the constitutions of the other states, especially of Iowa and New York, the most recently framed.

There was no printing-press in Monterey, and the secretary had to enlist all the people he could find, who were handy writers, to make copies of bills and reports for the use of the members.

There was a dozen or more of the members, mostly overlanders from the Western states, then so called, who said but little, but paid close attention to business, and always voted, and voted quite independently of most of the speeches that were made.

They had, most of them, been here but two or three years, and were farmers purposing to make the state their home.

A few of the members talked a great deal, and for the most part talked well, but it was surprising how little they influenced the votes!

One could not tell, from beginning to end, what were the party affiliations of the members.

CHAPTER XI.

The Convention begins Business—"Bill of Rights" Introduced—Monday, September 10th, the Article Prohibiting Slavery Adopted by Unanimous Vote—September 12th, the Committee on Boundary of the State Proposing to Include what is now Nevada—Dr. Gwin's Proposition to Extend to the Boundary of New Mexico—Halleck's Amendment—Dr. Gwin's Ambition to become United States Senator—An All-Day Debate, September 24th—Late in the Evening Dr. Gwin's Boundary Adopted in Committee of the Whole.

THE convention decided upon its mode of procedure by appointing a committee of two from each district, to report, from time to time, such articles or sections of a plan as might be passed upon in committee. This committee consisted of twenty members, and Myron Norton was its chairman.[1]

The committee worked with great industry, and reported to the convention, from time to time, sections and articles for their consideration and action, and had, practically, most to do with framing the constitution.

It took the convention from Monday till Friday to complete its organization, appoint its officers, and begin its work. By that time the members had begun to become pretty well acquainted with each other, and,

[1] Mr. Norton was a young man, a lawyer from Vermont, not yet thirty years old.

He was a quiet, thoughtful man, strictly attentive to business, but he made no set speeches. In convention, he and Captain Halleck always sat together on a back seat, where they could look over the body when in session.

Mr. Norton was always ready to explain the reports of his committee, and what he did not know about the history and condition of affairs—he had been here less than one year—Captain Halleck, who knew everything, was close at hand to tell him.

holding three sessions each day, they became used to the routine of legislative business.

On Friday, September 7th, the business committee of twenty reported the Bill of Rights, and it was referred for consideration to the "committee of the whole."

It was taken up section by section, discussed, amended, and acted on during Friday and Saturday.

On Monday, September 10th, at 10 o'clock, the convention resumed its session and proceeded with the consideration of the report on the Bill of Rights.

They reached the section declaring that resident foreigners shall enjoy the same rights, in certain respects, as native-born citizens, and, after amending, passed it.[1]

1 William E. Shannon was born in Ireland. In 1846 he was a young lawyer in Rochester, New York, and came to California as captain in Stevenson's Regiment, in 1847. In 1849 he was at work in the mines.

When, in June of that year, Governor Riley sent out his call for the election of delegates to a convention to form a constitution, he was in Coloma. In response to the governor's proclamation, a public meeting of the miners in all that vicinity was held to consider matters and, if thought best, to prepare for the election of delegates.

That meeting was probably a sample of many others throughout the mines. It was held in a hotel which was in process of building.

It was yet without roof, and those inside sat on the floor-beams. A carpenter's saw-horse was the chairman's seat, and an empty barrel was his desk.

The first man to address the meeting said that he was born in a slave state, but he did not want slavery introduced here, and he was in favor of pledging any candidates who might be delegates to the proposed convention to see that a clause was introduced into the constitution, and if possible passed, prohibiting slavery here forever.

The next man who spoke said that he, too, was born in a slave state, and that he left it as much on account of slavery as anything else, and he was decidedly opposed to its introduction into California.

Mr. Shannon, who was present, said that he was utterly opposed to the introduction of slavery in California, and pledged himself that if he was sent as delegate, he would introduce a free-state clause, and use his utmost exertions to have it become a part of the constitution.

I am informed that Mr. Shannon died of cholera, in Sacramento, in 1850.

At that point Mr. Shannon moved to insert, as an additional section, the following:—

"Neither slavery nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in this state."

No objection was made to the motion. The sentiment of the country was so well known upon the subject that debate was unnecessary. One member wanted to amend by prohibiting the introduction of free negroes, and some others raised the question as to what particular portion of the constitution the prohibition of slavery should appear in, which, on motion, was determined to be the Bill of Rights, and some questioned whether it would not be well to submit the matter to the people in a separate article; but when it came to a vote, the section was *adopted unanimously.*

There was no sign of the amazing importance of that decision, so easily reached in that little far-off town on that day.

The convention went on about its ordinary business as if nothing unusual had happened. The outside world was quiet; the forenoon sun had melted away the usual morning ocean fog, and the deep, unceasing roar of the surf came up from the circling shore of the bay, and everything seemed peaceful, — but something had taken place there, that morning, that was soon to convulse the nation! But no one comprehended it then. Men only spoke of the convention as having got rid of its most perplexing question, and said that henceforth it would be plain sailing.

On the following Wednesday, September 12th, at

the opening of the morning session, the president, under a resolution of the convention, appointed a committee of five to report what, in their opinion, should constitute the boundary of the state of California, consisting of Messrs. Hastings, Sutter, Reid, De la Guerra, and Rodriguez.

On Tuesday, September 18th, Mr. Hastings made a report from that committee, which was referred to the committee of the whole.

It proposed a boundary to include not only what is now California, but nearly all of what is now the state of Nevada also.

On Saturday, September 22d, the convention, in committee of the whole, took up this report.

Mr. McDougal moved an amendment, proposing to make the state include substantially all that was ever known as California on the old Mexican maps, or if Congress should object to this, that the boundary should be about what it is now. Mr. Semple, in some remarks upon the subject, said: "It is evidently not desirable that the state of California should extend her territory farther east than the Sierra Nevada. That is the great natural boundary; better than military fortifications, to secure us from any danger from the interior. Beyond that we do not desire. But if Congress thinks proper to include more, it would probably be our policy to abide by that decision."

Then came the proposition of Dr. Gwin, that California should extend eastward to New Mexico, taking in all that was known as California by Spain and Mexico, with the proviso, proposed by Mr. Halleck, that if Congress objected, and suggested a smaller

territory, the legislature should have power to accept the Sierra Nevada line.

On this joint proposition the great debate of the session took place.

All agreed that for California, as a state, the Sierra Nevada line was far the best.

But there was uncertainty about our getting into the Union. And there were reasons, as they thought, for believing that the boundary we might propose would overcome that uncertainty. On this point there was a sharp difference of opinion. It narrowed itself down to a choice of the Sierra Nevada line as it now is, or taking in the whole territory to the New Mexican line.

With which should we be most likely to get into the Union, and be relieved from our unorganized condition without law?

According to the prevailing sentiment of the country they represented, the convention had decided that California should be a free state.

That was upon the assumption that the inhabitants of a territory had a right to determine that question for themselves. So much seemed to be conceded to new settlers, at that time, in the United States generally.

Taking this for granted, the question to be decided was, How much territory should be included? For how much territory would Congress, as it was then composed, allow us to settle the question of slavery, by including it within our bounds, and admit us into the Union?

The situation was complicated and peculiar.

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This whole territory had been acquired under the Democratic administration of President Polk, but was now to be dealt with under the Whig administration of President Taylor.

The House of Representatives, in a very heated controversy, had come very near voting not to admit slavery into any of this acquired territory,—the "Wilmot Proviso." This created unprecedented excitement. It was this that defeated every effort to pass a law giving us a territorial government by the outgoing administration, and promised to do the same for the incoming one.

Between these powerful and excited parties, the Northern and the Southern, California must find its way into the Union, or remain without law. So far as Congress was concerned, any hope of agreement on the question of slavery in the territories was at an end.

But there were those connected with the incoming administration of President Taylor, who, in the absence of the requisite action by Congress organizing a territory here, favored the organization of a state by the people themselves, which might then apply to Congress with some prospect of being admitted.

To sanction this course, there would be a very large party in the Northern states, and it was thought that there would be enough moderate men in the Southern states, who, joining their influence with that of the administration, would be able to bring the state into the Union.

And it was thought, moreover, by some, that these three elements of political strength would be all the more likely to prevail, and admit us to the Union,

if the whole of what was ever known as California was included, because it would make it all a free state, and so remove the question of slavery in the acquired territory forever from Congress.

So much importance was attached to this plan, that Hon. T. Butler King, a Georgia Congressman, was sent to this country in the spring of 1849 to make known the plans and wishes of the administration, and indicate what course would find favor at Washington.

He arrived a little after the issue of Governor Riley's proclamation calling a constitutional convention, and found that plans for the organization of a state, by the people here, were already being carried out.

But, according to Governor Riley's proclamation, they embraced only the territory west of the Sierra Nevada. This would give another free state, to be sure, but it would leave a great extent of territory east of it for Congress to debate about, interfering with all the other business of the country.

Why not extend the boundary, and take in all that was ever known as California, and have no more contention concerning slavery over it?

The plan was so plausible that it came at last to make its appeal to patriotism.

"Granting"—it was said—"that you could be rereived into the Union with the Sierra Nevada boundary, you would leave the rest a subject of strife in Congress, and no one knows what the consequences might be.

" Whereas, if you take in all ever known as California, clear to New Mexico, you not only come into the Union, but at the same time you give peace to your country, now torn by fierce contention."

On the same steamship with Mr. T. Butler King came Dr. William M. Gwin.

The long voyage afforded them ample opportunity to discuss the plans of the new administration, and though Dr. Gwin was a Democrat, his purpose in coming to California was such that he would wish to be on as good terms as possible with an administration that was to be in power at least four years.[1]

He arrived here early in June, just in time to take part in the public discussions occasioned by Governor Riley's call for a convention to frame a constitution, and, very naturally, when, on August 1st, the time appointed for the election of delegates came, he was chosen one of the delegates from San Francisco.

He was one of the older members of the convention, and was the only one with a Congressional experience. He was a thorough Southerner, as afterward plainly enough appeared, but it was not particularly manifest in the convention.

He did not undertake to be a leader in that body, or champion any particular measure, till it came to the question of the boundary to be fixed for the state.

With regard to this, he did his utmost to secure the adoption of the larger boundary, and he did it mainly, as he again and again declared, to settle the slavery question touching the territory, outside of Congress.

His proposition was to include all the territory from the Pacific eastward to the New Mexican line.

[1] "Dr. Gwin says, in his *Memoirs*, MS., 5, that on the day of President Taylor's funeral he met Stephen A. Douglas in front of Willard's Hotel, and informed him that on the morrow he should be *en route* for California, which, by the failure of Congress to give it a territorial government, would be forced to make itself a state, to urge that policy, and to become a candidate for United States Senator, and that within a year he would present his credentials. He was enabled to keep his word."—*Bancroft*, vol. 23, p. 291.

To this Mr. Halleck offered an amendment, that the legislature have power to accept the Sierra Nevada as the eastern boundary line in case Congress should prefer it. Mr. Gwin accepted the amendment. But Mr. Halleck was a pronounced Northern man, and supported and advocated the adoption of the larger boundary for the same reasons Mr. Gwin said that he did. But he wanted to provide an alternative, so that if Congress declined to admit the state to the Union to remain so large, they might propose the smaller limit, to be subsequently accepted and ratified by the legislature of California.

It was thought very strange, at the time, that these two gentlemen should be so agreed on this boundary question, and it was more than intimated that there must have been a private understanding between them. But this they both most emphatically denied.

The debate opened in committee of the whole on Monday morning, September 24th, and continued throughout the day and evening.

Messrs. Gwin, Halleck, Sherwood, and Norton—all but Dr. Gwin Northern men—argued earnestly in favor of adopting the larger boundary, and Messrs. Shannon, Hastings, McCarver, McDougal, and Botts —the last being a Southern man—urged the adoption of the Sierra Nevada line.

Late in the evening, when many members had left on account of fatigue, the question was taken, and the larger boundary was adopted,—ayes 19, noes 4. The committee rose, reported action, and the house adjourned.

The weary members were glad to go out into the fresh air and retire to their lodgings.

CHAPTER XII.

The Vote on the Boundary Question Unsatisfactory — Became more so, as it was Discussed in Private — The Question of Admission to the Union the main one — Mr. Sherwood's Speech — Mr. Botts's Speech — Mr. Halleck's Speech — Another Close Vote for Larger Boundary — Scene of Confusion Followed — Adjourned — Reconsideration Carried — Mr. Lippitt's Speech — Mr. Gilbert's Speech — Final Vote adopting Sierra Boundary, 32 to 7.

THE next day, the convention went on with its business as usual, but the question of the boundary was still much talked about, and great doubt was expressed as to how it would be finally determined.

Just here may be as good a place as any to say that nothing whatever was said in the debate indicating that there was a purpose or expectation on the part of the Southern members that the adoption of the larger boundary would result in the introduction of slavery into any part of the territory.

Nor was there any appearance, in or out of the convention, of any secret understanding on the part of any upon that subject.

Most of the men who advocated the larger boundary were thorough and pronounced Northern men.

And Mr. Botts, one of the most influential of the Southern men, stoutly opposed it, and advocated the Sierra Nevada line.

As to Dr. Gwin, he had no such preponderating influence in the convention as some modern writers attribute to him. I could name ten members, either of whom might with as much propriety be called the

leader in that body. His age and legislative experience gave him some advantage, but he did not carry his measures, any more than other men.

He did not often appear in debate, in which he could not be said to excel.

In manner he was cordial and conciliatory, as he might well be, remembering his proposed candidacy for the United States Senate.

It was later that he developed his great capacity for political leadership, while a member of the Senate from California.

It is said in a recent well-written article on the birth of this state, "that it now seems perfectly plain that the pro-slavery members [of the convention] hoped that by making the state so large, it would subsequently be necessary to divide it by an east-and-west line, thus adding one state to the South." I can say that if such was the "hope" of these members, it did not appear in or about the convention, and, as I have said, the greater number of those who voted for the larger boundary were Northern, not Southern, men.

But the above-mentioned writer quotes from Francis J. Lippitt, Esq., then a member of the convention, but now of Rhode Island, as follows on this point:—

"I was afterward informed that this boundary line had been adopted at the instigation of a clique of members from the Southern states, with the view to a subsequent division of California by an east-and-west line into two large states, . . . and further, to the future organization of the southern of these two states as a slave state,—an event that would have been quite certain."

Mr. Lippitt's information may have been correct. It seems to have come to him after the vote of September 24th, in committee of the whole, which was nineteen in favor of the larger boundary to four for the smaller.

The influence it had on him will appear when the question comes up for final action.

Something came to my own knowledge a couple of years later, looking in the same direction. Mr. Gwin had no sooner taken his seat in the Senate for six years, than he began doing his best to bring about a division of the state as it was finally admitted. I learned it in a very direct way.

I had occasion to go from San Francisco to Monterey, on the steamship *Panama*, on the 15th of September, 1851.

Senator Gwin was on board, on his way to Washington. Governor McDougal was on board, also, on his way to Monterey, and other towns south of it, to attend conventions called to express a desire of the people for a division of the state, ostensibly on account of the non-adaptation of laws both to the north and to the south,—unequal representation, unjust taxation, and so forth.

But there was another reason beneath all that, which soon appeared in a conversation between the governor and the Senator. Said the Senator, speaking of the proposed division, "the country is ripe for it, North and South. The initiatory steps will be taken by the legislature as fast as they can be. The people will be ready."

"But," says the governor, "can it be gotten through Congress without the Wilmot Proviso?"

"Yes," answered the Senator, "the fanatics at the North could not get a corporal's guard against it."

This conversation made a very great impression upon me at the time,—so much so that I wrote it down, so as not to forget the language used, and it is from that copy I quote here. I was exceedingly surprised at the time, remembering the very different sentiments of both the gentlemen on this subject at the convention, only two years before.

Whether the Senator had secretly cherished the same purposes then, or whether he had formed them under the influence of the intense excitement in Congress during the preceding year, created by the admission of California as a free state, I do not know, but we all know what his course was from that time on.

At Monterey I was careful to inquire for the "convention," but for some reason none was held, and I never heard afterward of any being held in the towns farther south.

Mr. Gwin's statement that "the country was ripe for it," had no foundation in fact.

The country, as a whole, knew nothing about it, and those that were told were indifferent.

But what he said about the course the legislature would take showed that he was well informed on that point.

There was a persistent effort made in that body, year after year, by members who came from the Southern states, to divide this state, and it continued down nearly if not quite to the time of the secession. And at times it came very near succeeding.

But to resume the account of the convention's action in fixing the boundary of the state of California.

The adoption of the larger boundary in committee of the whole, on September 24th, as heretofore described, was very unsatisfactory to many members. The matter was much discussed and thoroughly studied. There was no general excitement over it, but there was a constant comparison of views concerning it outside of the convention hall, as well as inside. In consequence, some members changed their opinions, while others were more confirmed in the positions they had taken.

So far as appeared, the controlling motive was to take the course that would be most sure to give us speedy admission to the Union, and end this disorganized and dangerous condition.

Sixteen days after the action in committee of the whole in favor of the larger boundary, the subject came up for final action by the convention.

It was opened in the evening session of October 8th, and was not closed till the end of the afternoon session, October 10th. Some of the arguments, *pro* and *con*, were more elaborate than before, but they all covered the same ground.

Every one admitted that the Sierra Nevada line was the best for us, as a state, but those who contended for the larger boundary argued that we should be more surely admitted by Congress if in our action we settled the question of slavery for the whole territory ever known as California, by including it all, thus relieving that body of all necessity of debate or action concerning it. And some went so far as to say that

in thus gaining admission to the Union with the larger boundary, and removing the great cause of discord, we might be saving the Union itself from dissolution!

On this point Mr. Sherwood, a delegate from Sacramento, and a native of New York state, said:—

"The consideration which has governed my vote and action here in regard to the boundary has not been simply what might ultimately be the boundary of this state. . . . It is a matter of very little importance to us whether for a year or two we possess that barren desert between the Sierra Nevada and New Mexico.

"But it is a matter of great importance to the people of the United States, and to the perpetuity of the American Union and its institutions, that we should settle this slavery question, and prevent a division between the North and the South."[1]

Mr. Botts,[2] from Virginia, a delegate from Monterey, said in reply:—

"I want to make a few remarks on this subject, if I can keep cool.

"The gentleman who has last taken his seat has made his strongest appeal in behalf of this extreme eastern boundary, that it will be the only means of

[1] William S. Sherwood was born in Sandy Hill, Washington County, New York, was thirty-two years of age, and had been in California four months.

[2] Charles T. Botts was a lawyer residing in Monterey with his family. He was born in Prince William County, Virginia, in 1809. He came to Monterey as naval storekeeper in 1848. Later, he was a lawyer in San Francisco, and for some time a district judge in Sacramento.

He was a thorough gentleman, a born lawyer, a fluent and graceful speaker, and a very respected citizen.

His brother was the Hon. John Minor Botts, of Richmond, Virginia.

getting you into the Union. I tell you, you will never get into the Union with this boundary. If you do, it will be only to sit among its ruins, like Marius among the ruins of Carthage. . . . There were two extreme factions [in Congress], the one contending that the power remained in Congress to exclude slavery [from acquired territory] and the other contending that the power was retained by the North and the South equally to bring all their institutions into a conquered country.

"Between these two violent extremes appeared the mediating portion of the wisdom, both of the North and the South, and they agreed thereupon to a great compromise principle. It was this. That the people of a territory should be allowed to settle the matter for themselves. And the proposition was hailed with general acclamation. . . . It was thus supposed that California would immediately erect herself into a state, and that she would settle this question for herself.

"Now, is the proposition of this eastern boundary based on any such principle as that? Whom do we, the delegates in this convention, represent? Do we represent the people east of the Sierra Nevada?

"If the country east of that range of mountains had been called into this convention, is any man prepared to say that this constitution is the same as it would have been had they been represented?

"Is it not evident, then, that you are evading those directions under which you are acting,—that compromise principle under which you are called upon to act, —and that you are settling this question, not for your-

selves, but for others,—others who have never been heard, and who it is not intended shall ever be heard, upon this floor? . . . I say that, in effect, you have already designated the eastern boundary; that General Riley proclaimed the eastern boundary of California in his proclamation, and the people said amen, and they, through their representatives, have excluded slavery for themselves; and is it for you to reverse that decision? You cannot do it. The people themselves cannot do it. The people themselves, within certain limits, cannot make rules for people without those limits."

Dr. Gwin, in some remarks, asserted that the necessity of every portion of the people being represented could not be maintained. Wisconsin, he said, was taken into the Union notwithstanding a large territory included in it was not represented in the convention that formed the constitution. The same was true of Michigan, yet the state was admitted. "So much for this bugbear in regard to the settlements on the Salt Lake."

To this Mr. Hoppe, a delegate from San José, replied that he did not see how we could be justified in adopting a boundary taking in the Mormons,—a community of not less than twenty-five thousand souls, having no representation in this body.

"If the whole of California is to be included," said he, "I shall be in favor of dissolving this convention, remodeling the apportionment, and giving them an equal representation with ourselves."

It was Tuesday forenoon, and the convention foresaw for itself a hard day's work, and settled itself to business accordingly.

Mr. Halleck rose to argue in favor of the adoption of the larger boundary.

He was Governor Riley's secretary of state, a man well read in law as well as in military science, and familiar with the Spanish, as well as other European languages. Concerning the whole California situation he was by far the best informed of any man in the convention.

He had spoken briefly several times on this boundary question, but never at any considerable length. He now gave his views in detail.

"My reasons," said he, "for advocating the larger boundary are these. In the first place, we are assembled here to form a constitution for California as she is recognized in the treaty of session, in the official papers and dispatches of our government, in the maps and memoirs published by order of the Congress of the United States, and in the maps and records of the Spanish and Mexican governments. Such, in my opinion, is the California for which we are now called upon to form a constitution.

"In the second place, to form a constitution for California as she now is, without division or change, will facilitate the admission of the new state into the Union. . . . If we present a constitution for all of California with the slavery question settled by unanimous vote of the convention, we shall unite all parties in favor of our admission.

"The administration will favor it, not only as a matter of right and justice, but on the score of policy, because it will relieve their party of the embarrassments of 'Southern addresses' and 'Wilmot Provisos.'

"The Northern Free Soil Party will favor such admission, because our constitution makes California a free state, and this removes all object or excuse for further agitation. The Southern pro-slavery and state right party will be for us because by deciding for ourselves, without intervention of Congress, we merely exercise the right which has always been claimed for us by the South.

"But if we divide this territory, and while settling the slavery question for one portion of California, leave it open for all the remainder of this country, we shall satisfy no party, and very possibly may array against us large portions of all these political factions of the older states. . . . The states east of the Rocky Mountains cannot settle this question. We in California can settle it.

"A third reason for including all California within the limits of the new state is, that we do not yet know where the eastern line ought to be drawn. If members of this convention are so divided in opinion on that point as they are, ought we not to leave the question to the legislature, to be decided by that body when the proper information shall be obtained?

"Another reason for including all California within the limits of the new state is the necessity of giving a government to the people who are settling the country east of the Sierra Nevada.

"Congress, embarrassed as that body will be by the slavery question, cannot organize a government for these people. *We*, however, can give them a government, under the constitution which we are now forming, that that portion of country can be organized

into counties and judicial districts, so as to secure the life and property of individuals. Large numbers of people annually cross that territory in order to reach the El Dorado of the West, and crimes of the darkest dye are committed on the road. . . . Let us now look for a moment at the various objections which have been urged against the boundary as reported by the committee of the whole,—the larger boundary.

"In the first place, it is said that this boundary includes too large an extent of country. To this it is replied that the legislature, as soon as it shall deem proper, can cede to the general government any portion of this territory, and contract our boundary within as narrow limits as it may desire. In the second place, it is urged that we should, in our constitution, fix a definite boundary, so as to leave nothing to the discretion of Congress and the state legislature.

"This would be well, if we knew precisely where to draw this boundary line, and if there was no extraneous question calculated to impede our admission into the Union as a state formed out of only a portion of California.

"Again, it is urged that as the people east of the snowy mountains are not represented in this convention, we have no right to include them within the limits of the state. The objection has been answered by a reference to numerous instances in the older states, where new settlements, not included within any organized district or county, have had no voice in state conventions or legislative bodies.

"If there had been time for delegates to come from

the Great Salt Lake, no one would have objected to their taking seats in this body, and the fact that any district or part of a district, or new settlement not within any organized district, is unrepresented here can form no serious objection to including such district or settlement within the boundaries of the state. . . . One more remark, and I have done.

"It has been charged by one of the gentlemen who speaks against the larger boundary, that that boundary proposition has been gotten up for political purposes; that it is intended to relieve the present general administration from the embarrassments of the slavery question.

"Nay, further, that its very terms were dictated to this convention by political emissaries of General Taylor, and that it was carried through the committee of the whole by direct interference and 'log-rolling' of such government emissaries now in the lobby of this house.

"Such charges are scarcely worthy of notice, and those who make them only lower themselves in the estimation of every respectable member of this body. . . . Gentlemen give themselves a great deal of unnecessary trouble in dragging into every discussion here the bearing of political parties at home, and in tasking their ingenuity to discover some difference of opinion, with respect to affairs in California, between the past administration (Polk's, Democratic) and the present (General Taylor's, Whig).

"The instructions issued by General Taylor's Cabinet correspond in every essential particular with those which came from the Cabinet of Mr. Polk.

"General Riley's proclamation calling for a more complete organization of the existing government of California and for the election of delegates to this convention was issued and sent to press on the third day of June last, and the steamer which brought the first instructions from the present administration did not reach San Francisco till the 4th of June, and were not received by General Riley till the 10th of that month.

"Those instructions, however, confirmed in every respect the course which General Riley had previously taken. I hope this explanation will be sufficient to satisfy gentlemen that there has been no essential difference of opinion at home with respect to the course pursued by the government here, and that these authorities have been uninfluenced in their course by any considerations connected with party politics.'

The question before the convention being the committee report in favor of the larger boundary, with the proviso that Congress, with the consent of the state legislature, may make it smaller,—

Mr. McDougal offered a substitute differing from it only in this, that it left out the need of reference to the legislature altogether, and referred the question of the choice of the larger or the smaller boundary to Congress alone.

To this Mr. Botts objected, because it recognized authority in Congress to determine the question of slavery in territory, which he denied, and maintained that the people inhabiting the territory could alone settle that question.

The discussion went on earnestly during the remainder of the forenoon, when the convention adjourned till three o'clock in the afternoon.

At three o'clock the session opened, and the question before the body was the substitute proposed by Mr. McDougal. On the vote being taken, it was lost.

The question now recurring on the committee report in favor of the larger boundary as proposed by Mr. Gwin, with Mr. Halleck's proviso, it was concurred in,—29 in favor and 22 against.

Then followed the only scene of disorder during the entire session of the convention. Many members rose to their feet, excitement prevailed, all was confusion, tables were overturned, and some cried one thing and some another. Mr. Snyder called out above the noise, "Your constitution's gone! Your constitution's gone!" and Mr. McCarver pressed a motion to adjourn *sine die*.

Now, on the Saturday preceding, the convention thought they could see their way clear to get through and adjourn *sine die* to-day, Tuesday, the 9th.

But Mr. Snyder called out, "Have you completed the business the people of California sent you here to perform? I shall vote against adjourning before the business before us is completed." [1]

Upon that Mr. McCarver withdrew his motion to

[1] Jacob R. Snyder came overland to California, arriving at Sutter' Fort, September 23, 1845. On the discovery of gold in January, 1848, he engaged in business, at Sutter's Fort, with P. B. Reading and Samuel Brannan. After the organization of the state, he engaged in banking in San Francisco, in partnership with James King of William.

Major Snyder held various important offices under the state and nation with credit to himself and his country. He died in Sonoma, at the age of sixty-five years.

adjourn *sine die.* Order having been measurably restored, a motion was made to rescind the resolution of last Saturday, to adjourn *sine die* to-day (Tuesday), and then the house adjourned.

So ended a hard day's work, and it was followed by no evening session.

The members wanted rest, and opportunity to confer together privately on the question that divided them.

On Wednesday morning, October 10th, the convention met, and was opened with prayer, as usual, and began another hard day's work.

The discussion was opened by Mr. Jones, a Southern man, and a delegate from the San Joaquin district.[1]

According to the vote of the preceding day, the larger boundary had been adopted, but by the small majority of only seven votes.

Mr. Jones moved a reconsideration of this vote for the purpose of offering a somewhat different proposition. He wished to adopt the Sierra Nevada line, which all believed to be best for California, but also to say that if Congress should refuse to admit the state with this boundary, then the larger boundary shall be accepted, including all the territory heretofore known as California.

Mr. Jones's proposition differed but little from some that had been previously considered; but if a reconsideration of the previous day's vote could be had, it would open the question for still further effort on behalf of agreement in opinion.

[1] Mr. J. M. Jones was born in Scott County, Kentucky, was twenty-five years old, was a lawyer, had resided in Louisiana, from whence he came to California, and had been here four months.

Mr. Botts was in favor of reconsideration.

Mr. Gwin was not. As the vote stood, the larger boundary, which was his pet measure, was adopted.

If the vote should be reconsidered, it might not be adopted again.

"Why," said he, "go into a reconsideration, if the manifest disposition of the house shows that it cannot produce the desired effect?" And after further remarks, he said, "I do not desire to include the whole territory, but Congress may desire to do it, and with Congress lies the discretionary power. . . . My desire is, that we should not jeopard the admission of the state by committing a blunder about this boundary line."

Four or five members followed, expressing briefly their opinion in favor of reconsideration, in order that there might be further effort toward agreement.

At this juncture, Mr. Lippitt, who had come from a sick-bed to participate in the business of the morning, rose to advocate the adoption of the Sierra Nevada line.

He argued against the larger boundary, because it included the Mormons at Salt Lake,—people said to number some thirty thousand or forty thousand souls, —people who knew nothing about this convention, who had never been invited to be represented in it,— people upon whom we have no legal right to impose a government. And further, it would be impracticable to carry on our government over that immense territory. Nature herself has shut us up between the Sierra Nevada and the Pacific.

But his chief ground of opposition to the larger

boundary was, that to propose it would open up the very difficulty in Congress which its friends think it would avoid! "It opens up," said he, "a most dangerous and exciting question in Congress."

"If the issue is raised there between the two great parties of the North and the South, our constitution goes by the board!

"If we take the Sierra Nevada boundary, there will be no issue between the North and the South. The question will simply be on the acceptance of this constitution, containing a certain and definite boundary.

"It is republican in form, and that being the case, we are entitled to admission under the provisions of the Federal constitution. The South has laid down the principle that the people of a state are the sole judges of what shall be its domestic institutions.

"The whole South will therefore take us as we are, with that boundary. Then, how will it be with the North? They would probably prefer having us extend our government over the whole territory.

"But there will be no issue joined between the North and the South. The issue, if any there should be, will be between the North and the people of California themselves. They will say, 'Why did you not extend your limits to the Rocky Mountains?' There is no issue between the North and the South. If there is any dissatisfaction at all, it will be on the part of the North. But the North sees that we give her two Senators from a non-slave-holding state, and that turns the scale in the Senate of the United States. It gives her the command of the whole question hereafter.

"If the other boundary is adopted, let us see what

would be the consequences. It is a double proposition,—a proposition with an alternative,—to fix our boundary either on the Sierra Nevada or include the whole of California, as Congress and the legislature may hereafter determine. Is not that making an open question of it?—throwing down the glove between the two great parties.

"Is it possible that any member of this convention does not see that this leaves the whole question open? . . . I shall vote in favor of any proposition making the Sierra Nevada the definite boundary line."

The remainder of Wednesday forenoon was spent in inquiries concerning the actual boundaries of California under the governments of Spain and Mexico, and in hearing replies from the Spanish-speaking members of the convention, after which Mr. Hill, delegate from San Diego, proposed a new line for the eastern boundary, when the convention took a recess till three o'clock in the afternoon.

On assembling in the afternoon, Mr. Gilbert, delegate from San Francisco, addressed the convention, declaring himself in favor of the larger boundary, but if that could not be agreed upon with some unanimity, then he was in favor of the Sierra Nevada line.

In speaking on this point he said, "If we cannot have the whole of California, let us claim only that which we can extend our institutions over, and do justice to the people who live in it.

"While I am with those who claim the whole territory, while I believe by adopting that policy we can settle forever the question that is likely to divide the

Union, still, when a majority of this convention say they cannot go with us, then I wish to limit the state to the most compact boundaries. If we cannot include the whole of the Great Desert, let us say we do not want any part of it. Matters were brought up here to-day about the exact lines of that boundary, which, in my view, are considerations of no importance.

"I contend that in taking the larger boundary we settle the question of slavery over the territory included in it, and that every man who wishes well to the Union would wish that question settled. I desire the proposition to come distinctly on this point."

After a variety of motions and votes, and the settlement of parliamentary questions, the convention, late in the afternoon, came to a direct vote on the adoption of the Sierra Nevada boundary, and it prevailed, thirty-two voting for it and only seven against. That vote fixed the boundary as it would have been determined in the beginning, without debate, had it not been for the overshadowing influence of the question of slavery.

CHAPTER XIII.

Completion of the Work of the Convention — Adoption of the Preamble — Preparation of an Address to the People — Members, in a Body, Call on Governor Riley — Adjournment — Constitution Adopted by Vote of the People, and State Officers Chosen, on November 13, 1849 — Legislature Met in San José, December 20, 1849 — Governor Riley turns over Authority to the State — Frémont and Gwin Chosen United States Senators — With Wright and Gilbert, Representatives, they Leave for Washington — The Legislature Proceeds with its Work.

LITTLE now remained for the convention to do but to complete its records, and prepare the constitution for immediate circulation, in view of the popular vote upon it, which was to be taken early in November.

Among the last things done was the adoption of a preamble to place at the head of the constitution, and it was in these words:—

"We, the people of California, grateful to Almighty God for our freedom, in order to secure its blessings, do establish this constitution."

A brief and pertinent address was prepared to go out with it, urging the voters to give it immediate consideration, and if they approved, to vote for it without fail on the appointed day.

After final adjournment, the members of the convention waited on Governor Riley in a body.[1]

Captain Sutter addressed him in their behalf, and in responding the General said, among other things: —

[1] "The convention having thus completed its labors, Governor Riley, on October 24th, issued a proclamation, appointing Thursday, November 29, 1849, to be set apart and kept as a day of public thanksgiving and prayer." — *Hittell*, vol. 2, p. 776.

"My success in the affairs of California is mainly owing to the efficient aid rendered me by Captain Halleck, the secretary of state."

On the thirteenth day of November the constitution was adopted by vote of the people, and a governor and all other necessary officers were elected.

A month later, on the 20th of December, 1849, the legislature met in San José, the designated capital, and organized the state government.

The governor was inaugurated, and all other officers were in due form inducted into office.

"On the same day, and as soon as he was notified of the fact, Governor Riley, who was present in San José with his staff, issued a final proclamation, announcing that a new executive having been elected and installed into office in accordance with the constitution of the state, he thereby resigned his power as governor.

"He congratulated the people upon at length having a government of their own choice, and one which, under the favor of Divine Providence, would secure their prosperity and happiness, and the permanent welfare of the new commonwealth."[1]

California was now a state, organized in conformity with the requirements of the constitution of the United States, and assuming the functions of civil government, but occupying territory not her own.

The question of greatest doubt yet remained to be solved: Would Congress admit the state to the Union, and legalize all that she had done? The anxiety felt

[1] *Hittell*, vol. 2, p. 786.

by all the members of the convention was indicated very clearly in the debate on the boundary question. It was felt by everybody.

Congress had not been asked to authorize the formation of a state government here.

Congress had failed in two sessions to set up even a territorial government, and whether it would now so change its attitude toward California as to admit it as a state, when it had been so long unable to organize it as a territory, was a matter of painful uncertainty.

The situation was unprecedented.

The people, under the stress of necessity, had organized a state government. But it was not the owner of its territory. It had no money with which to pay its officers.

It was emphatically alone in the world, with no resources for self-support, if she should fail to be admitted into the Union. However excellent her citizenship and her constitution and laws, or however worthy her officers, what could she do if left to stand alone! What a spectacle would she be if Congress should ignore her proceedings and remand her back under territorial leading-strings.

Judging from the course of that body in the then recent past, the reception it would give the new state was a matter of extreme uncertainty.

To be sure, President Taylor and most of his Cabinet were in favor of admitting California unconditionally and at once with the free-state constitution which the people had framed, but President Taylor had against him the ruling forces of the Democratic party, now lately defeated, and the most prominent men of his own Whig party did not agree with him.

What hope was there, then, for California in Congress?

But to present herself and argue her case before the country was her only course.

There was no alternative.

Her representatives to Congress had already been chosen,—Messrs. Gilbert and Wright,—and one of the first acts of the legislature was the election of Messrs. Frémont and Gwin to the United States Senate.

It was a sufficient reason for promptness in this matter, that Congress was already in session, and as it would take our delegation about a month to get to Washington, it was highly desirable that they should be on their way as soon as possible. When they were gone, the legislature entered upon the work before it.

They spent little or no time over the question whether the legislature should proceed at once with the business of legislation, or await the action of Congress on the application for admission into the Union, but went about the work before them without delay.

"There was for the first legislature a vast amount of labor to perform, and a great and weighty responsibility to assume. . . . To confine the expenditures within due bounds, to keep the young state out of debt, to make it punctual and just in all its engagements, were some of the sure and certain means to advance and secure its prosperity. To build up a reputation that would bear just criticism of all parties, was an object to be hoped and wished for, and in the efforts of the legislature to accomplish this great end, it might depend upon his cordial support."[1]

[1] Governor Burnett's inaugural.—*Hittell*, vol. 2, p. 788.

CHAPTER XIV.

Congressional Delegation at Washington — Sharp Division of Sentiment as to their Admission — President Taylor Advises the Admission of California, December 4, 1849 — Draft of Constitution Submitted, February 13, 1850 — An Elaborate Memorial Issued and widely Published by the Delegation — The Admission of the State made an "Administration Measure" — Not Unitedly Agreed to by the Party Leaders — Mr. Clay's "Omnibus Bill" Introduced, Coupling many other things with "Admission" — The Opening of an All-Summer Debate — Mr. Calhoun's last Speech read for him, March 4, 1850.

And so with the opening of the year 1850 began the life of the state of California.[1]

When, near the same time, our Congressional delega-

[1] Just here something took place, of more importance than has hitherto been attributed to it. Early in January, 1850, two delegates from the "state of Deseret" presented themselves at San José.

They said that in March, 1849, a convention was held in Deseret and a state constitution was formed and was submitted to the people, and was adopted. But when they heard that California was about to hold a constitutional convention, they were chosen delegates to attend it, in order to ask that such a boundary line might be adopted as would include them. But the delegates had arrived too late. The Monterey convention had adjourned, and so they came to San José to see if anything could be done about it by the legislature. They said they represented 20,000 people then in Salt Lake, and 30,000 more were on the way there. They were stoutly opposed to the admission of slavery there.

Of course their mission was in vain, and nothing came of it.

But what if they had arrived here a little earlier, and had been present in the convention in Monterey in September, and had made their request there?

When we remember how very near the convention came to including them, the strongest objection being that they were not represented in the convention, we can see how almost certainly Mr. Gwin's "larger boundary" would have been adopted.

What the result would have been no man can say.

But it is very plain that it was a narrow escape of California from Mormon complications.

Particulars are given in *Tuthill's History of California* (p. 287), and in *Hall's History of San José* (p. 223).

tion left for Washington, they could have had news from the East up to about the beginning of December, 1849. By that time President Taylor was well settled in his administration, and it was well known that his influence would be in favor of the admission of California to the Union and the seating of her delegation to Congress.

Beyond that all was uncertainty.

The four-weeks' steamship voyage to New York afforded the gentlemen ample opportunity to discuss the situation as they were then informed of it, and in some measure to form their plan of action.

Possibly they found papers containing later news at Mazatlan, and very likely still later at Panamá.

If they did, it could not, on the whole, have been reassuring.

All summer the entire country had been agitated over the question of the territory acquired from Mexico, one part insisting that it should remain free, and that slavery should never be introduced into it, the other part stoutly contending that slave property could be taken and used there, equally with any other property, and that neither Congress nor the inhabitants had a right to exclude it.

The press was full of it, on both sides of the question. Popular conventions were held. Heated appeals were made by leading men, and sometimes threats of disunion were heard. It was in the midst of this excited and divided state of public sentiment that our delegates knew that Congress was to meet on the third day of December, 1849.

And they were on the way to appear before that

Congress and ask that California, a free state, just formed from the choicest part of the recently acquired territory, be admitted to the Union.

It is easy to believe that they had many days of long and anxious discourse together beneath the awning as they passed through the tropics on their way.

At last their journey ended, and early in February they arrived in Washington and were ready to present their credentials and ask the admission of the state of California to the Union.

They soon learned that, in his message at the opening of Congress, President Taylor had said that he had reason to believe that California would soon seek admission to the Union, and he recommended that the application be favorably received.[1]

And now on the 13th of February he submitted to Congress an official copy of California's constitution.

A cursory debate followed and the subject went by for the time.

But our delegation soon found that their application was to meet a determined resistance.

Therefore, in order to correct errors and place it before the public mind in the light of truth, they drew up a carefully prepared "Memorial," addressed to the Senate and House of Representatives, opening with this statement:—

1 "No civil government having been provided by Congress for California, the people of the territory recently met in convention for the purpose of forming a state constitution, and it is believed they will shortly apply for admission of California into the Union.

"Should this be the case, I recommend their application to the favorable consideration of Congress."—*President Taylor's Message*, Dec. 4, 1849.

"The undersigned deem it but just to state that they have learned with astonishment and sincere regret, since their arrival in the city of Washington, of the existence of an organized, respectable, and talented opposition to the admission of the new state which they have the distinguished honor to represent. This opposition is so unexpected, so important in numbers and ability, so decided in its sectional character, that they feel they should do injustice to their constituents, to the cause of good government, and to the progressive advance of freedom and civilization, did they not at least attempt an answer to the many arguments urged against the admission of California. . . .

"The undersigned have deemed it obligatory upon them, in presenting in a formal way the request of the state of California for admission into the American Union, that they should, by a narration of facts, at once and forever silence those who have disregarded the obligations of courtesy and all the rules of justice, by ungenerous insinuations, unfair deductions, false premises, and unwarranted conclusions. They believe that in so doing they will carry out the wishes of those who have commissioned them and contribute to the true history of this important political era, while they ardently desire and hope that they may thereby be enabled to exert a happy influence in allaying that intense excitement which now menaces the perpetuity of the republic and all the dearest hopes of freedom."

The substance of the contents of this memorial is important for preservation, not only because of its absolutely truthful presentation of the case, but its structure shows the kind of objections which they found they had to meet and overcome.

They had been in Washington but two or three weeks, but that was quite long enough to convince them that their application was to be opposed by a combination of influences of unknown strength.

They begin by briefly narrating the early history of California, with its gradual settlement and its mixed population. They then recite the main facts of the history of its acquisition by the United States.

While war lasted, it was, of course, under military authority, and for the most part the Mexican law was continued in force.

A small overland emigration came into the country each year after 1845. But when gold was discovered in 1848, immigrants flocked in by thousands and by tens of thousands.

The civil authority, though backed by the military, was sorely put to it, even under the war power, to maintain order and administer justice. But when, in August, 1848, the news of peace came, and with it the end of military authority in civil affairs, the people expected to hear by the very next mail of the organization of a territorial government for the country by Congress. But no such news came. Since, however, four fifths of the male population of the country were then eagerly engaged in the mines, no special attention was given to the unsettled condition of civil affairs.

But upon the coming of winter, and the return of a great majority of the miners to the towns, the subject was taken up in earnest.

It was forced upon public attention by the prevalence of lawlessness and crime. Murders, highway robberies, and other outrages convinced all honest and

orderly people that something must be done to insure public safety, or anarchy would reign.

Meetings were held for consultation; the facts of the situation were considered; the utter insufficiency of the Mexican law system was made plain, even if it was in legal existence, which it was not, since the termination of the war; the remoteness of California from the states and the seat of government, and therefore the absolute necessity of self-reliance and united action in some form,—all these things occupied public attention well on into the spring of 1849.

The result was a general concurrence of opinion that a convention ought to be held at the earliest possible date for the formation of a state constitution.

The news of the final failure of Congress to pass a bill establishing a territorial government in California came by a special steamer which was sent to Mazatlan to get the latest news, in advance of the mail, and reached San Francisco, May 28, 1849.

It was seen at once that a state organization was the only feasible scheme which promised the country a government.

In accord with this conviction, on June 3, 1849, Governor Riley, at Monterey, the capital, issued a proclamation, recommending the election of delegates to a convention for forming a state constitution, said body to convene at Monterey on the 1st of September following.

While a majority of the people denied his right to issue such a proclamation, claiming that in the default of the action of Congress the right to pursue such a course was inherent in the people, they conceded that

it was the duty of the patriotic to yield their abstract opinions, and to unite in one common effort to promote the public good.

Furthermore, the delegation went on to say that the people of California "did not adopt such form of government in obedience to dictation from the executive here [in Washington], through General Riley there; but, on the contrary, actually took the initiative in the movement, and only concurred in the suggestions of the *de facto* governor as a matter of convenience, to save time, and with patriotic resolution to merge all minor differences of opinion in one unanimous effort to avert impending ills and remedy existing evils.

"Much misapprehension appears to have obtained in the Atlantic states relative to the question of slavery in California. The undersigned have no hesitation in saying that the provision in the constitution excluding that institution meets with the almost unanimous approval of that people. . . . Since the discovery of the mines, the feeling in opposition to the introduction of slavery is believed to have become, if possible, more unanimous than before. . . . There is no doubt, moreover, that two fifths of those who voted in favor of the constitution were recent emigrants from slave-holding states. . . .

"The question of the boundary called out the most vehement and angry debate which was witnessed during the sitting of the convention. The project of fixing the southern boundary of the state on the parallel of 36° 30′ [Mason and Dixon's line] was never entertained by that body."

The delegation proceeded to show that the right of suffrage and qualification for citizenship were rightly prescribed, and that the result of the labors of the convention was submitted to the people of California, and the vote showed that the sentiment in favor of the constitution was nearly unanimous.

They stated, also, that at the same time the vote was taken on the adoption of the constitution, state officers were chosen, who had already entered upon their several offices, and were at that time in the discharge of their duties.

The delegation closed their "Memorial" in these words:—

"This people request admission into the American Union as a state. They understand and estimate the advantages which will accrue to them from such a connection, while they trust they do not too highly compute those which will be conferred upon their brethren. They do not present themselves as suppliants, nor do they bear themselves with arrogance or presumption. They come as free American citizens, —citizens by treaty, by adoption, and by birth, and ask that they may be permitted to reap the common benefits, share the common ills, and promote the common welfare as one of the United States of America.

[Signed] "William M. Gwin.
"John C. Frémont.
"George W. Wright.
"Edward Gilbert."

This "Memorial" was placed before all the members of Congress, and was, in substance at least, published by the press throughout the country.

As has been stated, while the delegation was on the way to Washington, President Taylor had recommended, in his annual message, the favorable consideration of an application from California for admission into the Union, if it should be made, and later, having received the official copy of her constitution, he had laid it before Congress.

The question thus presented to Congress and the country was a very simple one. Did California fulfill the conditions prescribed in the constitution of the United States for the admission of a new state into the Union?

Very few in any party were heard holding it in doubt.

Therefore, when its admission was made an administration measure, it was to be expected that the party having just come into power — and especially its leading men — would unite in support of it. But in this there was disappointment. Mr. Clay and Mr. Webster were the leading men of the Whig party, not only in the Senate, but in the country.

And neither of these gentlemen took very kindly to the election of General Taylor as President, on the ground of his military reputation, when the qualifications of statesmanship were, as they seemed to think, left out of account.

And the appearance is, that they did not make much, if any, effort to unite the party in a measure in which they could all agree, and admit the new state.

What was called "the President's plan" for the admission of California was presented to Congress on January 21, 1849.

It presented the matter by itself alone, and unencumbered with any other questions.

But Mr. Clay, instead of supporting it, or seeking to modify it, or making any reference to it whatever, on the 29th of January introduced in the Senate a series of compromise measures, the first of which was that California ought to be admitted,[1] and the rest were intended to meet the demands of the North and the South against each other. It came later to be known as the "Omnibus Bill."

This opened up an all-summer debate, and put off action on the admission of California till fall.

Meanwhile, the California delegation waited, and watched its progress, uncertain when or how it would end.

On the 4th of March, 1850, Mr. Calhoun delivered his last speech in the Senate, on the condition of the country and the questions of the hour, in the close of which he discussed the application of California to be admitted as a state.[2]

He called to mind the fact that the South was united against the "Wilmot Proviso," which would have prohibited the introduction of slavery into ter-

1 In speaking on his first resolution, Mr. Clay said:—

"Mr. President, it must be acknowledged that there has been some irregularity in the movements which have terminated in the adoption of a constitution of California, and in the expression of her wish, not yet formally communicated to Congress, it is true [January 29, 1849], but which may be anticipated in a few days, to be admitted into the Union as a state. . . .

"I trust that if California, irregular as her previous action may have been in the adoption of a constitution, if she shall be admitted, . . . will make her contribution of wisdom, of patriotism, and of good feeling to this body, in order to conduct the affairs of this great and boundless empire."—*Life and Works of Henry Clay*, vol. 3, p. 115.

2 *The Works of Calhoun*, vol. 4, p. 563.

ritory acquired from Mexico, and that it would present the same opposition to what he called an "executive proviso" to accomplish the same result, through executive influence, in the getting up of a free-state constitution in California.

"That," he goes on to say, "the Southern states hold to be unconstitutional, unjust, inconsistent with their equality as members of the common Union, and calculated to destroy irretrievably the equilibrium between the two sections. . . . It is contrary to the constitution, in that it deprives the Southern states, as joint partners and owners of the territories, of their rights in them. . . .

"In claiming the right for the inhabitants, instead of Congress, to legislate for the territories, the 'executive proviso' assumes that the sovereignty over the territories is vested in the inhabitants, or to express it in the language of the Senators from Texas, they have 'the same inherent right of self-government as the people in the states.'

"The assumption is utterly unfounded, unconstitutional, without example, and contrary to the entire practice of the government from its commencement to the present time.

"The recent movement of individuals in California to form a constitution and a state government, and to appoint Senators and Representatives, is the first fruit of this monstrous assumption.

"If the individuals who made this movement had gone to California as adventurers, and if, as such, they had conquered the territory and established their independence, the sovereignty of the country would

have been vested in them, as a separate, independent community.

"In that case they would have had the right to form a constitution and to establish a government for themselves; and if afterwards they thought proper to apply to Congress for admission into the Union as a sovereign and independent state, all this would have been regular and according to established principles. But such is not the case.

"It was the United States who conquered California, and finally acquired it by treaty. The sovereignty, of course, is vested in them, and not in the individuals who have attempted to form a constitution and a state without their consent.

"Nor is it less clear that the power of legislating over the acquired territory is vested in Congress, and not, as is assumed, in the inhabitants of the territories.

"None can deny that the government of the United States has the power to acquire territories, either by war or treaty, but if the power to acquire exists, it belongs to Congress to carry it into execution.

"On this point there can be no doubt, for the constitution expressly provides that Congress shall have power 'to make all laws which shall be necessary and proper to carry into execution the foregoing powers [those vested in Congress], and all other powers vested by this constitution in the government of the United States, or any department or officer thereof.'

"But this important provision, while it gives to Congress the power of legislating over territories, imposes important limitations on its exercise, by restricting Congress to passing laws necessary and proper for

carrying the power into execution. . . . Having now established beyond controversy that the sovereignty over the territories is vested in the United States, and that the power of legislating over them is expressly vested in Congress, it follows that the individuals in California who have undertaken to form a constitution and a state, and to exercise the power of legislating without the consent of Congress, have usurped the sovereignty of the state and the authority of Congress, and have acted in open defiance of both.

"In other words, what they have done is revolutionary and rebellious in its character, anarchical in its tendency, and calculated to lead to the most dangerous consequences.

"Had they acted from premeditation and design, it would have been, in fact, actual rebellion.

"But such is not the case.

"The blame lies much less upon them than upon those who have induced them to take a course so unconstitutional and dangerous.

"They have been led into it by language held here, and the course pursued by the executive branch of the government.

"There is enough known to justify the assertion that those who profess to represent and act under the authority of the executive have advised, aided, and encouraged the movement which terminated in forming what they call a constitution and a state.

"General Riley, who professed to act as civil governor, called the convention, determined the number and distribution of the delegates, appointed the time and place of meeting, was present during the

session,[1] and gave its proceedings his approbation and sanction.

"If he acted without authority, he ought to have been tried, or at least reprimanded, and his course disavowed. Neither having been done, the presumption is that his course has been approved.

"This, of itself, is sufficient to identify the executive with his acts, and to make it responsible for them.

"I touch not the question whether General Riley was appointed or received the instructions under which he professed to act from the present executive or its predecessor. If from the former, it would implicate the preceding as well as the present administration.

"If not, the responsibility rests exclusively on the present.

"It is manifest from this statement that the Executive Department has undertaken to perform, acts preparatory to the meeting of the individuals to form their so-called constitution and government, which appertain exclusively to Congress. Indeed, they are identical in many respects with the provisions adopted by Congress when it gives permission to a territory to form a constitution and government in order to be admitted as a state into the Union. . . .

"It belongs now, Senators, to you to decide what part you will act in reference to this unprecedented transaction.

"The executive has laid the paper purporting to be the constitution of California before you, and asks you to admit her into the Union as a state; and the

[1] General Riley was at his office at headquarters, in Monterey, during the sessions of the convention, but was never present at its sessions.

question is, Will you, or will you not, admit her? It is a grave question, and there rests upon you a heavy responsibility.

"Much, very much, will depend upon your decision.

"If you admit her, you indorse and give sanction to all that has been done. Are you prepared to do so?

"Are you prepared to surrender your power of legislation for the territories? — a power expressly vested in Congress by the constitution, as has been fully established.

"Can you, consistently with your oath to support the constitution, surrender the power?

"Are you prepared to admit that the inhabitants of the territories possess the sovereignty over them, and that any number, more or less, may claim any extent of territory they please, may form a constitution and government, and erect it into a state, without asking your permission?

"Are you prepared to surrender the sovereignty of the United States over whatever territory may be hereafter acquired, to the first adventurers who may rush into it?

"Are you prepared to surrender virtually to the Executive Department all the powers which you have heretofore exercised over the territories?

"If not, how can you, consistently with your duty and your oaths to support the constitution, give your assent to the admission of California as a state, under a pretended constitution and government?

"Again, can you believe that the project of a constitution which they have adopted has the least validity? Can you believe that there is such a state in reality as the state of California?

"No; there is no such state. It has no legal or constitutional existence. It has no validity, and can have none without your sanction.

"How, then, can you admit it as a *state*, when, according to the provisions of the constitution, your power is limited to admitting new *states?* To be admitted, it must be a state,—and an existing state, independent of your sanction,—before you can admit it.

"When you give your permission to the inhabitants of a territory to form a constitution and a state, the constitution and state they form derive their authority from the people, and not from you.

"The state, before it is admitted, is actually a state, and does not become so by the *act of admission*, as would be the case with California, should you admit her contrary to the constitutional provisions and established usages heretofore. . . .

"But it may be asked, What is to be done with California, should she not be admitted?

"I answer, remand her back to the territorial condition, as was done in the case of Tennessee, in the early stage of the government.

"But it may be said California will not submit.

"That is not probable; but if she should not, when she refuses, it will then be time for us to decide what is to be done."[1]

[1] "Mr. Calhoun was too feeble in health to deliver this speech himself, but it was read for him by a brother Senator. Mr. Calhoun was present to hear it. His frame wasted by disease, swathed in flannels, he crept into the Senate-chamber to utter his last word. Before a month, or on March 31, 1850, he died."—*J. F. Rhodes*, vol. 1, p. 94.

CHAPTER XV.

Mr. Webster Discusses "California" in his "7th of March Speech," without Referring to the President's Plan of Admission, or to Mr. Clay's — He would Admit California — The Question of Slavery there not an Open Question, because the Law of Nature, Physical Geography, Forbids it — Mr. Seward Addresses the Senate two days later — "Let California come in. California already a state, and can never be less. She asks to be a state of this Union. The answer must be, Now, or never. No 'compromises' in a case like this."

THREE days later, on the 7th of March, 1850, Mr. Webster addressed the Senate, delivering what became known as his "7th of March speech," in which he spoke at some length on the California question, but not directly referring either to what was known as the President's plan of the admission of California, as might have been expected of him, or to Mr. Clay's plan, putting it at the head of a series of "compromise measures," but after referring briefly to the circumstances of the acquisition of California, and the remarkable discovery of gold, and the conclusion of the treaty of peace with Mexico, he proceeded to say:—

"It so happened that although, after the return of peace, it became a very important subject for legislative consideration and legislative decision to provide a proper territorial government for California, yet differences of opinion between the two houses of Congress prevented the establishment of any such territorial government at the last session.

"Under this state of things the inhabitants of California, already amounting to a considerable number,

thought it to be their duty, in the summer of last year, to establish a local government.

"Under the proclamation of General Riley, the people chose delegates to a convention, and that convention met at Monterey.

"It formed a constitution for the state of California, which, being referred to the people, was adopted by them in their primary assemblages. Desirous of immediate connection with the United States, its Senators were appointed and Representatives chosen, who have come hither, bringing with them the authentic constitution of the state of California; and they now present themselves, asking, in behalf of their constituents, that it may be admitted into this Union as one of the United States.

"It is said, and I suppose truly, that, of the members who composed that convention, some sixteen were natives of and had been residents in the slave-holding states, and about twenty-two were from the non-slave-holding states, and the remaining ten members were either native Californians or old settlers of that country.

"This prohibition of slavery, it is said, was inserted with entire unanimity.

"It is this circumstance, the prohibition of slavery, which has contributed to raise—I do not say it has wholly raised—the dispute as to the propriety of the admission of California into the Union under this constitution.

"It is not to be denied—nobody thinks of denying—that, whatever reasons were assigned at the commencement of the late war with Mexico, it was prose-

cuted for the purpose of the acquisition of territory, and under the alleged argument that the cession of territory was the only form in which proper compensation could be obtained by the United States from Mexico for the various claims and demands which the people of this country had against that government.

"At any rate, it will be found that President Polk's message, at the commencement of the session of December, 1847, avowed that the war was to be prosecuted until some acquisition of territory should be made. As the acquisition was to be south of the line of the United States, in warm climates and countries, it was naturally, I suppose, expected by the South that whatever acquisitions were made in that region would be added to the slave-holding portion of the United States. Very little accurate information was possessed of the real physical condition either of California or New Mexico, and events have not turned out as was expected. Both California and New Mexico are likely to come in as free states, and therefore some degree of disappointment and surprise has resulted. In other words, it is obvious that the question which has so long harassed the country, and at some times very seriously alarmed the minds of wise and good men, has come upon us for a fresh discussion, —the question of slavery in the United States. . . . Now, as to California and New Mexico, I hold slavery to be excluded from those territories by a law even superior to that which admits and sanctions it in Texas. I mean the law of nature, of physical geography, the law of the formation of the earth. That law

settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico."

On the 11th of March, two days later than the day of Mr. Webster's speech, Mr. Seward addressed the Senate on the question of the admission of California.

In opening his speech, he said: "Four years ago, California, a Mexican province scarcely inhabited and quite unexplored, was unknown even to our usually immoderate desires, except by a harbor, capacious and tranquil, which only statesmen then foresaw would be useful in the Oriental commerce of a far distant, if not merely chimerical, future.

"A year ago, California was a mere military dependency of our own, and we were celebrating with unanimity and enthusiasm its acquisition, with its newly discovered but untold and untouched mineral wealth, as the most auspicious of many and unparalleled achievements.

"To-day, California is a state more populous than the least and richer than several of the greatest of our thirty states. This same California, thus rich and populous, is here asking admission into the Union, and finds us debating the dissolution of the Union itself. . . . *Shall California be received?*

"For myself, upon my individual judgment and conscience, I answer, Yes. For myself, as an instructed representative of one of the states,—of that one, even, of the states which is soonest and longest to be pressed in commercial and political rivalry by the new commonwealth, I answer, Yes. Let California come in. Every new state, coming from whatever part of the continent she may, is always welcome.

"But California, that comes from the clime where the west dies away into the rising east; California, that bounds at once the empire and the continent; California, the youthful queen of the Pacific, in her robes of freedom gorgeously inlaid with gold, — is doubly welcome."

And here Mr. Seward proceeded to ask, "Why should California be rejected?" "Only two reasons," he says, "are given," and they are founded on the "circumstances of her coming," and in "the organic law which she presents for our confirmation."

In reply to the first objection, that California comes unceremoniously, he points to the fact that she was torn from Mexico and from under her laws, and by treaty was promised admission as a state as soon as possible.

And if she comes without the preliminary consent of Congress, so did Michigan. "California comes here under the paramount law of self-preservation.

"She was a military colony. All military colonies are objectionable. She deserves praise for seeking to become a state. We tried to give her a territorial charter, and we could not agree to give it *now*, if that were what she was asking."

Mr. Seward answers the objection that California has assigned her own boundaries without the consent of Congress, by pointing to the fact that since she was left to organize herself, she was obliged to do as she did.

"But she is too large," some objected. "Her boundaries are natural," he replied, "and convenient, and are no encroachment on anybody else. The United States domain is properly secured.

"The constitution is republican, and the only objection is, that inasmuch as it inhibits slavery, it is altogether too republican."

The objection that California came as a free state on account of executive influence he denies, as resting on nothing but suspicion.

And he proceeded to say, "May this republic never have a President commit a more serious or more dangerous usurpation of power than the act of the present eminent chief magistrate in endeavoring to induce legislative authority to relieve him from the exercise of military power, by establishing civil institutions regulated by law in distant provinces."

Mr. Seward then proceeded to state his reasons for the opinion that "*California ought to be admitted.*"

His first reason was drawn from the assured magnitude of the population of the United States in the time to come.

It was 1850 when he was speaking. His political arithmetic led him to predict that in fifty years the population of the nation would be eighty millions. And if his reckoning was correct, that in 1950 it would be two hundred millions. And that long before that time the entire country from the Atlantic to the Pacific would be covered by it, and be brought into complete political organization. And then he asks, "Shall the American people, then, be divided?"

In approaching an answer to this question he considers our position, power, and capabilities. He sees no seat of empire so magnificent as this, and he thinks we have inherited intellectual vigor, courage, invention, and enterprise, that, with our systems of education,

will qualify us to meet the responsibilities of our position.

"The Old World," he said, "and the past were allotted by Providence to the pupilage of mankind, under the hard discipline of arbitrary power, quelling the violence of human passions.

"The New World and the future seem to have been appointed for the maturity of mankind, with the development of self-government operating in obedience to reason and judgment. . . .

"The Atlantic states, through their commercial, social, and political affinities and sympathies, are steadily renovating the governments and the social constitutions of Europe and of Africa.

"The Pacific states must necessarily perform the same sublime and beneficent function in Asia.

"If, then, the American people shall remain an undivided nation, the ripening civilization of the West, after a separation growing wider and wider for four thousand years, will, in its circuit of the world, meet again and mingle with the declining civilization of the East on our own free soil, and a new and more perfect civilization will arise to bless the earth, under the sway of our own cherished and beneficent democratic institutions. We may then reasonably hope for greatness, felicity, and renown, excelling any hitherto attained by any nation, if, standing firmly on the continent, we lose not our grasp on the shore of either ocean.

"Whether a destiny so magnificent would be only partially defeated or whether it would be altogether lost by a relaxation of that grasp, surpasses our wis-

dom to determine, and, happily, it is not important to be determined. It is enough if we agree that expectations so grand, yet so reasonable and so just, ought not to be in any degree disappointed.

"And now it seems to me that the perpetual unity of the empire hangs on the decision of this day and of this hour. California is already a state,—a complete and fully appointed state. She can never again be less than that. She can never again be a province or a colony; nor can she be made to shrink and shrivel into the proportions of a federal dependent territory.

"California, then, henceforth and forever must be, what she is now, a state.

"The question whether she shall be one of the United States of America *has* depended on her and on us. *Her* election has been made. *Our* consent alone remains suspended; and that consent must be pronounced now, or never. I say *now*, or *never*. Nothing prevents it now but want of agreement among ourselves.

"Our harmony cannot increase while this question remains open. We shall never agree to admit California unless we agree now. Nor will California abide delay.

"I do not say that she contemplates independence; but if she does not, it is because she does not anticipate rejection. Do you say she can have no motive? Consider, then, her attitude, if rejected. She needs a constitution, a legislature, and magistrates; she needs titles to that golden domain of yours within her borders,—good titles, too,—and you must give them on your own terms, or she must take them without your

leave. She needs a mint, a custom-house, wharves, hospitals, and institutions of learning; she needs fortifications and roads and railroads; she needs the protection of an army and a navy; either your Stars and Stripes must wave over her ports and her fleets, or she must raise aloft a standard for herself; she needs, at least, to know whether you are friends or enemies; and, finally, she needs what no American community can live without, sovereignty and independence,—either a just and equal share of yours, or sovereignty and independence of her own.

"Will you say that California could not aggrandize herself by separation?

"Would it, then, be a mean ambition to set up, within fifty years, on the Pacific coast, monuments like those which we think two hundred years have been well spent in establishing on the Atlantic coast?

"Will you say that California has no ability to become independent? She has the same moral ability for enterprise that inheres in us, and that ability implies command of all physical means.

"She has advantages of position. She is practically farther removed from us than England.

"We cannot reach her by railroad, nor by unbroken steam-navigation.

"We can send no armies over the prairie, the mountain, and the desert, nor across the remote and narrow isthmus within a foreign jurisdiction, nor around the Cape of Storms.

"We can send a navy there, but she has only to open her mines, and she can seduce our navies and appropriate our floating bulwarks to her own defense.

"Let her only seize your domain within her borders, and our commerce in her ports, and she will have at once revenues and credit adequate to all her necessities.

"Besides, are we so moderate, and has the world become so just, that we have no rivals and no enemies to lend their sympathies and aid to compass the dismemberment of our empire?

"Try not the temper and fidelity of California, — at least, not now, — not yet. Cherish her and indulge her until you have extended your settlements to her borders, and bound her fast by railroads and canals and telegraphs to your interests, — until her affinities of intercourse are established, and her habits of loyalty are fixed, — and then she can never be disengaged.

"California would not go alone. Oregon, so intimately allied to her, as yet so loosely attached to us, would go also; and then, at least, the entire Pacific coast, with the western declivity of the Sierra Nevada, would be lost.

"It would not depend at all upon us, nor even on the mere forbearance of California, how far eastward the long line across the temperate zone should be drawn, which should separate the republic of the Pacific from the republic of the Atlantic. Terminus has passed away with all the deities of the ancient Pantheon, but his scepter remains. Commerce is the god of boundaries, and no man now living can foretell his ultimate decree.

"But it is insisted that the admission of California shall be attended by a *compromise* of questions which have arisen out of *slavery*. I am opposed to any such compromise."

And then he entered into a very long and elaborate argument against all legislative compromises, but especially in the case of the admission of California, and concluded his speech as follows:—

"Let, then, those who distrust the Union make compromises to save it. I shall not impeach their wisdom, as I certainly cannot their patriotism; but indulging no such apprehensions myself, I shall vote for the admission of California directly, without conditions, without qualifications, and without compromise.

"For the vindication of that vote, I look not to the verdict of the passing hour, disturbed as the public mind now is by conflicting interests and passions, but to that period, happily not far distant, when the vast regions over which we are now legislating shall have received their destined inhabitants."

CHAPTER XVI.

The Case fairly Presented by these Representative Statesmen — Supreme Importance of the Issue — Debate continues all Summer — President Taylor Dies, July 9, 1850 — Vice-President Fillmore takes his Place — The Question of the "Balance of Power" in the United States Senate — The Senate came to a Vote on California, August 13, 1850 — Bill to Admit Passed — Minority "Protest" was Refused a Record on the Journal of the Senate — Bill came up in the House, September 7th — It was Delayed by Dilatory Motions — It was finally Passed on Saturday, the 7th, and Signed by the President on Monday, the 9th of September, 1850.

It seems to me that the arguments of these representative statesmen present fairly the case of California as it stood before Congress in the spring and summer of 1850.

The question of her admission to the Union was counted as one of supreme importance. Vast interests were manifestly dependent upon the decision.

They were set forth with startling clearness by Mr. Calhoun on the one side and by Mr. Seward on the other. It is not necessary to read the almost innumerable speeches delivered before Congress during the spring and summer, to become impressed with the importance of the issue. There were fifteen free states and fifteen slave states then, and, of course, an equal representation in the Senate.

The addition of the sixteenth free state would turn the scale, and mark the beginning of a preponderance of free-state power in Congress, with every prospect of its continued increase. Against this, resistance on the part of the South was almost desperate.

Consequently, the passage of the bill for the admission of California was resisted at every stage, especially in the Senate, for the only hope of preventing its final passage was there.

After an all-summer debate on the bill in both houses of Congress, the Senate came to a vote on August 13, 1850.[1] On that day the president of the Senate stated that the question was on the passage of the bill. A long debate ensued, when the yeas and nays were ordered, and being taken, were — yeas 34, nays 16. So the bill passed.

On the next day, ten of the members who voted "nay" asked to be permitted to present a protest against the Senate's action, and have it spread upon the journal.

The protest was read.[2] It commenced as follows: —

"We, the undersigned Senators, deeply impressed with the importance of the occasion, and with a solemn sense of the responsibility under which we are acting, respectfully submit the following protest against the bill admitting California as a state of this Union, and request that it may be entered upon the journal of the Senate. We feel that it is not enough to have resisted in debate alone a bill so fraught with mischief to the Union and the states we represent, with all the resources of argument which we possessed, but that it is also due to ourselves, the people whose

[1] During the summer of 1850, very great changes took place. President Taylor died on the 9th of July, 1850. Vice-President Fillmore thereupon became President, and upon his accession the entire administration was changed. But the new President and Cabinet were not less favorable to the admission of California to the Union than the preceding.

[2] *Congressional Globe*, vol. 21, 1849-50, p. 1578.

interests have been intrusted to our care, and to posterity, which even in its most distant generations may feel its consequences, to leave, in whatever form may be most solemn and enduring, a memorial of the opposition which we have made to this measure, and of the reasons by which we have been governed, upon the pages of a journal which the constitution requires to be kept so long as the Senate may have an existence.

"We desire to place the reasons upon which we are willing to be judged by generations living and yet to come, for our opposition to a bill whose consequences may be so durable and portentous as to make it an object of deep interest to all who may come after us."[1]

The protest claims that the bill sanctions the action of a portion of the inhabitants of California, which makes an "odious discrimination" against the "property" of the fifteen slave-holding states of the Union; also, that the right of the slave-holding states to a common and equal enjoyment of the territory of the Union is not recognized, and that the equality of these states in the confederacy is destroyed, and that for these and such like reasons the dissolution of the Union itself is threatened.

The protest is signed by Mason and Hunter of Virginia, Butler and Barnwell of South Carolina, Turney of Tennessee, Jefferson Davis of Mississippi,

[1] Mr. Jefferson Davis said: —

"It is the magnitude of the occasion which justifies the offering of a protest. In my opinion, this is the greatest that has occurred in the history of our country, so far as regards the consequences likely to ensue." — *Congressional Globe*, vol. 21, 1849–50, p. 1581.

Atchison of Missouri, and Morton and Yulee of Florida.

On the question of the reception and recording of the protest a long and earnest discussion arose. The question was finally decided in the negative, on the ground that it was against precedent, and that if a minority could protest in this way in one case, it might in other cases, and that if a minority might enter a protest, the majority might claim the right to put on record with it an answer, and so bring about an interminable difficulty.

The vote to decline to receive and record the protest was decided,—yeas 22, nays 19; and this ended the consideration of the question of the admission of California to the Union in the Senate.

On Saturday, September 7, 1850, the bill from the Senate for the admission of California came up in its order in the House.

Here its passage was resisted by every dilatory motion possible under parliamentary rules, in the course of which Mr. Thompson of Mississippi obtained the floor, and said in part:—

"I know and feel that the hour of debate is passed and that this House is impatient for action; but I am constrained even yet to make one more effort to secure justice for that section of the Union I represent. It is true, I struggle without hope; I know the result in advance. But I have sought the floor to enable me to place on record my own opinions and views.

"The substitute I proposed for this bill limits the boundary of California by that ancient, well-known line on the south of 36° 30′. It admits California

when she has agreed not to interfere with the primary disposition of the land, and pledges herself to those stipulations which were required of the other new states by proclamation of the President.

"It organizes a territorial government for the residue of the country south of the line of 36° 30′, to be called South California, and adopts for its government the same provisions enacted on yesterday for New Mexico. . . . I feel that I am speaking against the fixed determination of this House. But what is the necessity of admitting California now? Require her to comply with the conditions proposed, and she can and will assent by the next session. . . .

"The adoption of a territorial government for South California is demanded by the people of that country.

"The whole South asks for the division as an act of justice. Every consideration of sound policy demands this division. . . . By the formation of a territorial government the whole South will feel that they are not exclured by your act; that the majority here has some respect still for them and their rights. . . . I see that the majority are bent on their purposes. I despair of equity. I have done my utmost to ward off this blow. My counsel has been unheeded, and I am overpowered. This outrage is this day to be perfected, and all I can do is to leave the people's rights in the keeping of the people. In their action I shall acquiesce with more cheerfulness than in your arbitrary course."

After a few more motions and votes required to reach the final decision in a parliamentary way, the

question was reached, "Shall this bill pass?" The yeas and nays being ordered, the question was decided in the affirmative, — yeas 150, nays 56.

This was on Saturday, and the bill thus passed by the two houses of Congress reached the President on Monday, September, 9, 1850, and promptly received his signature, and then California was one of the states of the Union.

Our Representatives and Senators took their seats in Congress.

From that hour California became one of the United States of America.

This is the limit of our proposed study in the history of the state. But now, in the light of what has taken place in the fifty years since that day, we see very clearly that it was a turning-point in the history of the nation.

The balance of power which then began in the Senate went on growing with resistless force, till it resulted in removing the cause which had so long divided the Union into two sections, and wiping out the traditional division line between the states.

Nothing is plainer than that this great consummation was reached through the superintendence and control of a Wisdom and Power infinitely above that of man.

The result of admission to the Union to California herself is known to the world. The state has aimed to realize the almost prophetic ideal of Mr. Seward, as expressed in his speech advocating our admission, which was, "the setting up, within fifty years, on the

Pacific coast, monuments like those which we think two hundred years have been well spent in establishing on the Atlantic coast."

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